



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA-R10-OAR-2020-0361; FRL-5565-02-R10]

RIN 2012-AA02

Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon, and Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to revise the Federal Air Rules for Reservations (FARR), which is a collection of Federal Implementation Plans (FIPs) under the Clean Air Act for Indian reservations in Idaho, Oregon, and Washington. The proposed revisions, the first since the FARR was promulgated in 2005, clarify aspects of the initial rules, improve implementation, reflect air quality improvement strategies similar to those implemented in neighboring jurisdictions, and add provisions to address high levels of particulate matter emissions. In addition, the EPA proposes to promulgate three new FIPs implementing the FARR, for the Snoqualmie Indian Reservation, the Cowlitz Indian Reservation, and the lands held in trust for the Samish Indian Nation. As revised, the FARR will help further protect the human health and the environment of communities in and adjacent to these Indian reservations. The FARR will continue to be implemented by the EPA or a delegated Tribal authority, until replaced by a Tribal Implementation Plan (TIP) for a particular Indian reservation.

DATES: *Comments:* Comments must be received on or before **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN**

THE FEDERAL REGISTER]. Please refer to the **SUPPLEMENTARY INFORMATION** section (section IV.B. *Paperwork Reduction Act (PRA) of this preamble*) for additional information on submitting comments to OMB.

Public Hearing: If anyone contacts us requesting a public hearing on or before **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the EPA will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may submit your comments, identified by Docket ID No. EPA-R10-OAR-2020-0361, using the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. See the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section if you need assistance.

FOR FURTHER INFORMATION CONTACT: Sandra Brozusky, Air and Radiation Division, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101-1128, (206) 553-5317, brozusky.sandra@epa.gov.

SUPPLEMENTARY INFORMATION: *Participation in virtual public hearing.* As discussed in the public hearing subsection, if anyone contacts us to request a public hearing on or before **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, a virtual hearing will be held on November 17, 2022. The opportunity for a virtual public hearing is being offered to provide interested parties the opportunity to present information and opinions to the EPA concerning our proposal.

If requested, the virtual hearing will convene at 5:30 p.m. Pacific Time and will conclude at 8:00 p.m. Pacific Time unless the number of registrants indicates more time is needed. The EPA may close a session 15 minutes after the last registered speaker has testified if there are no additional speakers. The EPA will announce further details, including whether the hearing will be held, on the virtual public hearing website at <https://www.epa.gov/farr>.

If a virtual hearing is held you can register to speak by using the online registration form available at www.epa.gov/farr or contact Sandra Brozusky at by email at brozusky.sandra@epa.gov. The EPA will post a general agenda prior to the hearing that will list registered speakers in approximate order at: www.epa.gov/farr.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at www.epa.gov/farr. Please monitor our website or contact Sandra Brozusky at (206) 553-5317 or

by email at brozusky.sandra@epa.gov to determine if there are any updates. The EPA does not intend to publish a document in the ***Federal Register*** announcing updates.

If you require the services of a translator or a special accommodation such as audio description, please register for the hearing and describe your needs by **[INSERT DATE 20 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you need additional assistance, please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section. The EPA may not be able to arrange accommodations without advanced notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-R10-OAR-2020-0361. All documents in the docket are listed in [Regulations.gov](https://www.regulations.gov). Although listed, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically in www.regulations.gov.

Instructions. Direct your comments to Docket ID No. EPA-R10-OAR-2020-0361. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically any information that you consider to be CBI or other information whose disclosure is restricted by statute.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia

submissions, and general guidance on making effective comments, please visit

<https://www.epa.gov/dockets/commenting-epa-dockets>.

The www.regulations.gov website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

Due to public health concerns related to COVID-19, the EPA Docket Center and Reading Room are open to the public by appointment only. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via www.regulations.gov. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

Submitting CBI. Do not submit information containing CBI to the EPA through www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. If your material cannot be submitted using www.regulations.gov contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Organization of this document. Throughout this document, whenever "we," "us," or "our" is used, it means the EPA. This supplementary information section is arranged as follows:

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I. Background

A. Today's Action

To better protect air quality on Indian reservations in Idaho, Oregon, and Washington, and consistent with our authority under sections 301(a) and 301(d)(4) of the Clean Air Act (CAA) and 40 CFR 49.11(a), the EPA is proposing revisions to the Federal implementation plans (FIPs) (40 CFR part 49, subpart M) and the General Rules for Application to Indian Reservations in EPA Region 10 (40 CFR part 49, subpart C). These rules, originally promulgated in 2005, are collectively known as the Federal Air Rules for Reservations or “FARR.” As revised, the FARR will continue to ensure that basic air quality regulations are in place to protect health and welfare on Indian reservations located in Idaho, Oregon, and Washington.

The proposed revisions are based on the EPA's and Tribes' experience in implementing

the FARR since 2005, as well as changes in related Federal air quality regulations, and changes in monitored air quality. The revisions range from minor clarifications and revisions to existing rule language, to new regulations addressing additional emission sources, such as wood burning devices, that contribute to high levels of particulate matter emissions in certain areas. The minor changes to the existing FARR consist of eliminating duplicative text, correcting syntax and cross-reference errors, renumbering, minor clarification of rule language to improve consistency and implementation, and reformatting. In describing the FARR revisions in section II of this preamble, we have focused on the substantive rule changes, and do not describe in detail the editorial changes made throughout.

The proposed revisions include minor editorial changes throughout the FARR (subpart C) and FIP (subpart M) rules, in addition to substantive changes to certain provisions of the rules. As such, we are publishing with this proposal the full text of the rules as proposed to be revised, rather than only the portions of the text proposed to be revised in this action. A redline-strikeout comparison of the revised rules, as proposed, to the existing FARR and FIPs showing all proposed changes is included in the docket for this action. The EPA solicits comments on all aspects of the proposed revisions.

The EPA actively coordinated and consulted with affected Tribes in both group and individual meetings and encouraged affected Tribes to provide input to the EPA in developing these proposed revisions to ensure that Tribal considerations are properly addressed. This coordination and consultation with affected Tribes is described in the docket for this action.

B. Basis for Proposed Action

On April 8, 2005, the EPA promulgated FIPs under the CAA for 39 Indian reservations in Idaho, Oregon, and Washington to provide basic air quality regulations to protect health and welfare (70 FR 18074). The EPA took this action under its authority in sections 301(a) and 301(d)(4) of the CAA and 40 CFR 49.11(a) to promulgate “such Federal implementation plan provisions as are necessary or appropriate to protect air quality” in Indian country. A key goal of

the FARR was to help ensure that people living within Indian reservation boundaries receive equivalent air quality protection to those living outside of Indian reservations, as well as to “level the playing field” and help ensure that emissions from sources located within Indian reservations are controlled to levels similar to those of sources located outside the Indian reservations. The FARR rules were therefore substantially similar in the level of control to the neighboring State and local rules most relevant to the air polluting activities on these Indian reservations (70 FR 18074, 18077, 18091, 18093, April 8, 2005) (67 FR 11748, 11753, March 15, 2002).

The EPA has stated that it intends to carry out its authority under the CAA in Indian country in a prioritized way, beginning with sources that pose the greatest threat to public health and the environment (64 FR 8247, 8255, February 19, 1999) (67 FR 11748, 11749, March 15, 2002). The initial FIPs were the first building blocks under the CAA to address the most prevalent needs identified on Indian reservations in the Pacific Northwest. The EPA committed to revising the FARR as necessary or appropriate after gaining experience in implementing the FARR, identifying additional regulatory needs in light of changing air quality needs, and in consultation with Tribes (70 FR 18074, 18079, 18082, 18085, April 8, 2005).

This proposed rulemaking is the next step in addressing known air quality concerns on Indian reservations in the Pacific Northwest. The EPA has been implementing the FARR for over 15 years, often with the help of Tribes through formal delegations, grants, and informal assistance. Over the last several years, the EPA has actively coordinated and consulted with the Tribes in Idaho, Oregon, and Washington in developing these proposed revisions to the FARR and has sought suggestions from those responsible for implementation. The proposed revisions in this action incorporate many of these suggestions.

As with the initial promulgation of the FARR in 2005, the EPA is proposing these revisions under our authority in sections 301(a) and 301(d)(4) of the CAA and 40 CFR 49.11(a) because we have concluded that the revisions are necessary or appropriate for protecting air quality on Indian reservations in the Pacific Northwest. The proposed revisions fall into several

categories. First, the EPA and the affected Tribes have identified needed clarifications of existing rule sections to ensure the FARR is implemented as intended in 2005. Second, promulgation of new requirements that apply on Indian reservations, such as the Federal Minor New Source Review Program in Indian Country (Indian Country Minor NSR Rule) (76 FR 38748, July 1, 2011) has made some provisions of the FARR obsolete or necessitated revisions. Third, the test methods and industry standards incorporated by reference into the FARR have been updated since 2005. Fourth, input from affected Tribes and the EPA's ongoing evaluation of the FARR identified particular concerns with air pollution from some unregulated sources of particulate matter, such as emissions from residential wood burning devices and certain orchard heating devices.

Finally, since promulgation of the FARR, the EPA has strengthened the National Ambient Air Quality Standards (NAAQS) and increased protection of public health and welfare from fine particle pollution by reducing the level of the NAAQS for PM_{2.5} (particles less than or equal to 2.5 micrometers in aerodynamic diameter) to 35 micrograms per cubic meter (µg/m³) for the 24-hour standard and 12 µg/m³ for the annual standard (71 FR 61144, October 17, 2006) (78 FR 3086, January 15, 2013)¹. The NAAQS, promulgated under section 109 of the CAA, are a key component of air quality protection under the CAA. PM_{2.5} particles, measuring about 30 times less than the diameter of a human hair, are particularly harmful to human health as they can travel through the blood stream and cause significant health risks.

Since the PM_{2.5} NAAQS have been revised, more Indian reservations in the Pacific Northwest are at risk of a “nonattainment” designation, which may result in the development and implementation of plans containing stricter air pollution reduction measures. To reduce emissions to help these areas continue to maintain the NAAQS and better protect public health

¹ The CAA requires EPA to periodically review the standards to ensure that they provide adequate health and environmental protection, and to update those standards as necessary. The EPA is currently reconsidering a previous decision to retain the PM NAAQS, which were last strengthened in 2012 and expects to issue a proposed rulemaking in 2022 and a final rule in 2023. Should the NAAQS be revised, the EPA will work with Tribes to designate Indian reservations and evaluate whether further revisions to the FARR are necessary or appropriate.

and welfare on Indian reservations in the Pacific Northwest, the EPA is proposing revisions to existing rules and new rule sections to address certain previously unregulated sources of particulate matter emissions. These proposed regulations are described in more detail in Section II of this preamble.

In developing these proposed revisions, the EPA has two objectives in addition to those discussed in the previous paragraphs of this section. First, the EPA is proposing only those regulations that, to the extent practicable, minimize the implementation burdens upon the EPA and the regulated community while establishing requirements that are unambiguous and enforceable. Second, the EPA anticipates that these regulations can serve as models for Tribes as they continue to develop their own air quality programs. To that end, the regulations are designed so they can be implemented by a small air pollution agency and can be readily delegated to a Tribe for implementation.

As with the initial FARR promulgation, the EPA does not intend, nor does it expect, the proposed revisions to impose significantly different regulatory burdens upon industry or residents within Indian reservations than those imposed by the rules of State and local air agencies in the surrounding areas. Instead, the intent remains to ensure that people living within Indian reservation boundaries receive equivalent air quality protection, and that emissions from sources located within Indian reservations are controlled to levels similar to those of sources located outside the Indian reservations.

C. Areas Covered by the Rules

The FARR generally applies to any person who owns or operates an air pollution source within the exterior boundaries of an Indian reservation in Idaho, Oregon, or Washington as set forth in 40 CFR part 49, subpart M Implementation Plans for Tribes – Region X. As discussed in the Tribal Authority Rule (TAR) (63 FR 7254, 7257-58, February 12, 1998), the EPA interprets the term “reservation” consistent with U.S. Supreme Court case law to include both 1) lands that have been formally designated as a reservation by, for example, treaty, Federal statute, or

Executive Order of the President (often referred to as “formal reservations”) and 2) lands held in trust by the United States for the benefit of a Tribe, even if such lands have not been formally designated as a reservation (often referred to as “informal reservations”) (40 CFR 49.2(b); see also *Arizona Public Service Co. v. EPA*, 211 F.3d 1280, 1292-94 (D.C. Cir. 2000), *cert. denied*, 532 U.S. 970 (2001)). The preambles to the proposed and final FARR promulgated in 2005 indicate that the EPA intended that the FIP for a particular Tribe would apply to trust lands, even if not formally designated as a reservation (70 FR 18074, 18076-77, April 8, 2005) (67 FR 11748, 11749-11750, March 15, 2002). This intention, however, may not have been clear in light of language included in the final response to comments document for the FARR, “Response to Comments on the March 15, 2002 Proposal for Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon, and Washington,” comment A.3, indicating that the EPA intended the FARR to apply only to the formally designated reservation of a particular Indian Tribe.

The EPA believes it is important to make clear that the environmental protections provided by the FARR extend to “reservations,” as that term has been interpreted by EPA under CAA Section 301(d)(2)(B) and the TAR, that is, including any land held in trust for a covered Tribe that has not been formally designated as a reservation. The FARR currently defines “Indian country,” which includes Indian reservations as one element of Indian country but does not have a stand-alone definition of “Indian reservation.” The EPA is proposing to add a definition of “Indian reservation” in the FARR that defines “Indian reservation” according to the language of the Indian reservation element of Indian country and is thus consistent with the definition of “Federal Indian Reservation,” “Indian Reservation,” or “Reservation” under the TAR (40 CFR 49.2(c)). To eliminate any questions as to where the FARR applies, the EPA proposes to include in the FARR definition of Indian reservation the following explanatory language: “Under this definition, Indian reservations include lands held in trust by the United States government for the benefit of an Indian Tribe even if the trust lands have not been

formally designated as a reservation”. The inclusion of this additional explanatory language is not intended to make the use of the term “Indian reservation” in the FARR differ in any respect from that term as used and defined in the TAR, but rather to ensure the meaning of the term “Indian reservation” under the FARR is clear to the regulated community. Because a FIP under the FARR applies “within” the reservation of the specified Tribe, any newly established reservation lands for the specified Tribe will become automatically subject to the FIP for that Tribe as soon as the lands obtain their reservation status. The EPA has added language to make this clear.

Recognizing the lack of clarity on these issues under the existing language in the FARR, however, the proposed revisions would establish a date after which subject sources on land held in trust for a Tribe that has not been formally designated as a reservation must meet the requirements of the FARR.² In general, that date will be the effective date of the final rule promulgating these revisions. However, for rules that provide a period of time before subject sources are required to comply, the compliance dates for newly subject sources will be specified in those rules. As currently is the case, however, the FARR will not apply to the reservation of a newly-recognized Indian Tribe in Idaho, Oregon, or Washington until a FIP has been promulgated for the reservation of that Tribe, which would occur only after coordination and consultation with the affected Tribe and a rulemaking with notice and an opportunity for public comment.

In addition to this clarification, the EPA is proposing to make the FARR, as revised, applicable through the promulgation of FIPs to the reservation lands of two Federally recognized

²We estimate that there are approximately 31 stationary sources, such as casinos and a coffee roaster, located on such lands covered or proposed to be covered by the FARR. We are not aware of any such sources that would require additional control or monitoring equipment to comply with the FARR, as revised. The EPA is not proposing to revise the FARR to apply to other areas of Indian country, namely, individual Indian allotment lands that are located outside the exterior boundaries of a reservation or dependent Indian communities that do not also qualify as reservations. The EPA is not currently aware of any sources on those types of land outside of reservations in Idaho, Oregon, or Washington to which the FARR need apply. If in the future, EPA becomes aware of air quality concerns for Indian country outside of “Indian reservations” as defined in the FARR, EPA may propose other requirements that are deemed necessary or appropriate.

Indian Tribes that did not have reservation lands when the FARR was originally promulgated in 2005. At that time, the Cowlitz Indian Tribe and the Snoqualmie Indian Tribe had both received Federal recognition but did not have reservation lands. The Cowlitz Indian Reservation was established on March 9, 2015, and covers 152 acres in Clark County, Washington (80 FR 70250, November 13, 2015). The Snoqualmie Indian Reservation was established on October 20, 2006, covering approximately 55.84 acres in King County, Washington (71 FR 63347, October 30, 2006). In anticipation of this proposed revision, the EPA met informally and had discussions with both Tribes to explain the FARR and the proposed revisions to make the FARR apply to their Indian reservations and received each Tribe's input.

The EPA is also proposing to make the FARR, as revised, applicable through the promulgation of a FIP to the lands held in trust for the Samish Indian Nation. When the FARR was promulgated in 2005, the Samish Indian Nation had received Federal recognition but did not have trust lands or a formally designated reservation. During the development of the FARR revisions, the EPA had discussions with the Samish Indian Nation about having the FARR apply to their trust lands. Applying the FARR to the lands held in trust for the Samish Indian Nation would be consistent with the clarifications discussed in this section to ensure the FARR applies to any land held in trust for a Tribe that has not been formally designated as a reservation. The specific rule sections that apply on each of these Indian reservations would be incorporated by reference into reservation specific FIPs at 40 CFR part 49, subpart M, as shown in the proposed rulemaking changes.

D. Relationship between Part 49, Subpart C and Subpart M

The FARR has been structured with the “modular” approach described in the TAR to allow for both variation among Indian reservations and to facilitate the development and approval of TIPs to replace all or part of the Federal rules. Each section in subpart C, e.g., 40 CFR 49.131 General Rule for open burning, is effectively a “stand-alone” rule. The EPA promulgated a FIP in subpart M for each reservation, and each FIP incorporates specific rule

sections that are tailored on a reservation-by-reservation basis. Although most of the rules in the FIPs constitute a “base program” applicable to all Indian reservations in Idaho, Oregon, and Washington, some of the FIPs include “additional” reservation specific rules where specific needs exist or where the EPA determined, in coordination and consultation with the relevant Tribe, that a more stringent provision than would otherwise apply is appropriate. For example, the rule for particulate matter emissions from wood products industry sources was promulgated in 2005 for Indian reservations that had existing wood products industry sources or for those where such sources might be expected to locate, and where the EPA determined, in coordination and consultation with the affected Tribe, that more stringent provisions were appropriate (67 FR 11748, 11750-11751, 11753, 11758, March 15, 2002). The proposed revisions maintain this structure.

Table 1 lists all of the existing rules and proposed new rules under the FARR, including the “base program” rules that apply or are proposed to apply on all Indian reservations in Idaho, Oregon, and Washington, as well as the “additional” reservation specific rules that apply or are proposed to apply on some, but not all such Indian reservations (further discussed in Section II. of this preamble).

Table 1 – Base Program and Additional Rules

Section #	Title	Base Program	Additional Rules
§ 49.123	General provisions	x	
§ 49.124	Rule for limiting visible emissions	x	
§ 49.125	Rule for limiting the emissions of particulate matter	x	
§ 49.126	Rule for limiting fugitive particulate matter emissions	x	
§ 49.127	Rule for woodwaste burners		x
§ 49.128	Rule for limiting particulate matter emissions from wood products industry sources		x
§ 49.129	Rule for limiting emissions of sulfur dioxide	x	
§ 49.130	Rule for limiting sulfur in fuels	x	
§ 49.131	General rule for open burning	x	
§ 49.132	Rule for large open burning permits		x
§ 49.133	Rule for agricultural burning permits		x
§ 49.134	Rule for forestry and silvicultural burning		x

	permits		
§ 49.135	Rule for emissions detrimental to public health or welfare	x	
§ 49.137	Rule for air pollution episodes	x	
§ 49.138	Rule for the registration of air pollution sources and the reporting of emissions	x	
§ 49.139	Rule for non-Title V operating permits	x	
§ 49.140	Rule for residential wood burning devices	x	
§ 49.141	Rule for curtailment of residential wood burning devices for specific areas		x
§ 49.142	Rule for small open burning annual permits		x
§ 49.143	Permit by rule for small open burns		x

This structure also facilitates the delegation under 40 CFR 49.122 of certain FARR rules to Tribes that are building air quality programs. A delegation agreement authorizes a Tribe, with Federal assistance, to administer the Federal program, with EPA taking any appropriate enforcement. This approach allows the EPA to establish requirements tailored to local needs that can be effectively implemented through a partnership between the EPA and the Tribe. Delegation of the FARR helps Tribes gain experience in air quality management while deciding whether to adopt their own rules and regulations. To date several Tribes are assisting the EPA with implementation of one or more FARR rules under a delegation agreement with the EPA. A more detailed discussion on Tribal delegations can be found in 67 FR 11748, 11751-52, March 15, 2002. There are no substantive revisions proposed to the delegation provisions of the FARR.

The modular structure of the FARR also supports Tribes that choose to develop their own air quality program and submit it to the EPA for approval as a TIP. Under section 49.7(c) of the TAR, Tribes that are approved as meeting the eligibility criteria for Treatment as a State have the option of developing severable elements of a TIP and submitting those elements to the EPA for approval under the CAA. This allows the EPA to approve a Tribal rule covering a particular source type or activity and revoke the corresponding FARR rule from the FIP, while still leaving in place the FARR rules for other sources and/or activities. This approach allows for an easy incremental transition from Federal regulations to EPA-approved Tribal rules. As an example, on

November 24, 2014, the EPA approved a TIP submitted by the Swinomish Indian Tribal Community establishing a Tribal program applicable to all persons within the exterior boundaries of the Swinomish Reservation regulating open burning (79 FR 69763, November 24, 2014). In the same action, EPA rescinded the FARR General rule for open burning (40 CFR 49.131) from the Swinomish Reservation FIP such that only the Swinomish Tribal open burning rule applies.

II. Proposed FIP Revisions

A. Proposed Revisions and New Rules

As discussed in Section I.A. of this preamble, the EPA is proposing to revise several of the rules originally promulgated in 2005 that comprised the original “base program” rules that apply to all Indian reservations in Idaho, Oregon, and Washington and is proposing to promulgate one new “base program” regulation. The EPA is also proposing to revise several of the “additional” reservation specific rules originally promulgated in 2005 that apply on some, but not all, Indian reservations in Idaho, Oregon, and Washington, and the EPA is proposing to promulgate several new additional rules that would only apply, in coordination and consultation with the relevant Tribes, on specific Indian reservations where the EPA finds that the rules are necessary or appropriate. See Section II.B. of this preamble for a more detailed discussion on the additional rules proposed for specific Indian reservations. Each of these proposed new sections address emission sources that contribute to high levels of particulate matter emissions and protect air quality from the potential for significant deterioration caused by the release of particulate matter.

The following paragraphs summarize the substantive proposed changes for each of the sections of the existing and new rules that will comprise the “base program” and the existing and new additional rules that apply only on specific Indian reservations.

Administrative changes.

The EPA has made minor administrative revisions throughout the FARR to ensure

consistency in the use of terms and structure in similar provisions and to make other minor changes, where appropriate. For example, the proposed revisions replace the title of the FARR from “General Rules for Application to Indian Reservations in EPA Region 10” with “General Rules for Application to Indian Reservations in Idaho, Oregon, and Washington” to better reflect the geographic scope of the FARR. In 40 CFR 49.121 Partial delegation of administrative authority to a Tribe, the revisions clarify that a delegation may cover all or part of an Indian Reservation. As another example, at the end of each section of the current rules is a subparagraph that lists terms used in that rule and points to 40 CFR 49.123 General provisions for the definitions of these terms. The EPA is proposing to remove these sections because this itemized list of defined terms has not proven to be helpful and in fact sometimes has contributed to confusion.

Each rule in the FARR includes a section describing the purpose of the rule. The EPA is revising the statements of purpose in some of the rules to make them consistent. The EPA has also made an administrative change in subpart M in the FIP for the Spokane Reservation. The EPA has added to subpart M language that is currently in 40 CFR part 52, subpart WW (Washington State Implementation Plan), making clear that the Spokane Indian Reservation is designated as a Class I area for the purposes of preventing significant deterioration of air quality. This proposed rulemaking does not propose changes to this designation, but instead simply adds the reference to the designation in the FIP for the Spokane Reservation because this designation affects new source review permitting on and near the Spokane Reservation.

Section 49.123 General provisions. This section contains the definitions for specific terms used in the FARR, specifies the general requirements for testing, monitoring, recordkeeping and reporting, specifies requirements for performance tests, and identifies ASTM, International (ASTM) materials that are incorporated by reference in these rules.

Definitions. The EPA is proposing to add, revise, or remove certain definitions in this section. The following new or revised terms are not discussed here but are discussed in the

sections of this document that discuss the substantive revisions of the rules: the definition for *Indian reservation* is discussed in Section I.C. of this preamble and the definitions for *Cooking fire*, *Large open burn or burning*, *Non-title V operating permit*, *Orchard heating device*, *Recreational fire*, and *Small open burn or burning* are discussed in the relevant rule sections in Section II.A. of this preamble.

New definitions. The EPA is proposing to add several new definitions to 40 CFR 49.123 to provide for a better understanding of the existing rule language and define applicable terms used in new sections of the FARR. The EPA proposes to add the definition *Hog fuel or hogged fuel*, which means wood chips or shavings, residue from sawmills, and other wood processing residue. This is intended as a clarification of the list of items included in the definition of *wood*, to carry out the EPA's original intent and to provide a more complete understanding of the items considered wood and derivatives of wood.

To implement the authority in 40 CFR 49.129(d) authorizing the EPA to make certain changes to testing, monitoring, recordkeeping and reporting requirements under the FARR, the EPA is cross-referencing the definitions of *Intermediate change to monitoring*, *Major change to monitoring*, *Minor change to monitoring*, *Minor change to recordkeeping/reporting*, and *Minor change to test method* in 40 CFR 63.90, which are used for similar purposes.

With the addition of 40 CFR 49.140 Rule for residential wood burning devices and 40 CFR 49.141 Rule for curtailment of residential wood burning devices for specific areas, the EPA is also introducing a new definition for *Residential wood burning devices*. This definition, for purposes of the FARR, means any wood burning device that supplies heat to a single-family residence or is installed in an individual unit of a multiple unit structure such as a condominium, apartment, duplex, multiplex, hotel, motel, or resort. This includes but is not limited to, wood stoves, fireplaces, fireplace inserts, residential wood heaters, residential hydronic heaters, residential forced air furnaces, and residential central heaters. The EPA also added definitions for *Residential wood heater*, *Residential central heater*, *Residential forced air furnace*, and

Residential hydronic heater by cross-referencing the definitions of these same terms in 40 CFR 60.531 and 60.5473 of the EPA New Source Performance Standards for New Residential Wood Heaters and New Residential Hydronic Heaters and Forced-Air Furnaces as amended (40 CFR part 60, subpart AAA and 40 CFR part 60, subpart QQQQ).

Revised definitions. In addition to adding new definitions, the EPA is also revising several definitions to provide clarification for better understanding and ease of implementation. The EPA is proposing to revise the definition for *Agricultural activities* to include specific examples of activities that are not considered agricultural activities (e.g., hop drying in kilns and distillation of mint oil). As the EPA has previously advised the regulated community, the act of distilling mint or drying hops is not considered an agricultural activity under the FARR, and the proposed revisions help clarify this point.³ In addition, to eliminate confusion about whether fugitive emissions from tilled land are or are not regulated, the EPA is proposing to remove the reference to tilled land as an example of fugitive dust in the *Fugitive dust* definition. Although EPA considers the tilling of land to generate fugitive dust, “agricultural activities,” which includes the tilling of land, are expressly exempt from 40 CFR 49.126 Rule for limiting fugitive particulate matter emissions. The EPA is revising the definition of *Grate cleaning* by clarifying that, in addition to allowing for the removal of ash from fireboxes, grate cleaning also allows for the removal of other non-combustibles (e.g., rocks) from the firebox. Finally, the EPA is revising the definition of *forestry and silvicultural burns* by clarifying that the term includes prescribed fire, as that term is defined in 40 CFR 50.1(m).

Deleted definitions. The EPA is proposing to remove the definitions of *Garbage* and *Refuse* because they are no longer used to define what type of open burning is prohibited in 40 CFR 49.131. As discussed in this section, we are proposing to restructure 40 CFR 49.131

³ See letter from EPA Region 10 to the Administrator of the Washington Hops Commission, regarding “Exemption for “Agricultural Activities” under the Federal Air Rules for Reservations (FARR),” date February 2, 2007; letter from EPA Region 10 to the Executive Director of the Washington Mint Commission, regarding “Exemption for “Agricultural Activities” under the Federal Air Rules for Reservations (FARR),” date February 5, 2007.

General rule for open burning by removing the list of what cannot be burned and instead providing a list of what is allowed to be burned. We are also proposing to remove the definition of *Smudge pot* because smudge pots are no longer directly referred to in the FARR. Instead, in 40 CFR 49.123 the newly proposed definition *Orchard heating device or orchard heater* includes smudge pots as an example of a type of orchard heating device.

Testing, monitoring, recordkeeping, and reporting. During the course of implementing the FARR, questions arose regarding whether Region 10 could approve alternatives or exceptions to the requirements for testing, monitoring, recordkeeping, or reporting that are specified in the FARR. Unlike some EPA rules under the CAA (e.g., 40 CFR part 60, 40 CFR part 63), the FARR as originally enacted in 2005 did not include the authority or procedures for requesting or approving alternatives, exceptions, waivers, and similar actions for testing, monitoring, recordkeeping, and reporting required by the FARR.

Region 10 is proposing to add such authority and procedures to 40 CFR 49.123 General Provisions. These new provisions would provide Region 10 with authorities similar to those found in 40 CFR parts 60 and 63. Specifically, the EPA proposes adding provisions to allow the approval of the use of a test method with minor changes in methodology, the approval of shorter sampling times or smaller sample volumes when necessitated by process variables or other factors, and the waiver of the requirement for source tests because the owner or operator of an affected source has demonstrated by other means to the Regional Administrator's satisfaction that the affected source is in compliance with the relevant standard. In addition, the EPA proposes adding authority to approve minor changes in methodology for the specified monitoring requirements and procedures, as well as intermediate or major changes or alternatives to any monitoring requirements or procedures. Lastly, the EPA proposes adding authority to approve minor changes to recordkeeping or reporting for the specified requirements and procedures, as well as to waive recordkeeping or reporting requirements upon written application to the Regional Administrator if, in the Regional Administrator's judgment, the affected source is

achieving the relevant standard(s). A waiver of any recordkeeping or reporting requirement granted under this provision may be conditioned on other recordkeeping or reporting requirements deemed necessary by the Regional Administrator.

Performance tests. The EPA is also proposing to add general provisions that specify requirements for performance tests that apply where the applicable standard or test method does not include such requirements. These requirements specify, for example, the number of valid test runs for a performance test and are consistent with the requirements EPA includes in permits and regulations where performance testing is required.

ASTM standards. In 40 CFR 49.123(g), the EPA is proposing to update the ASTM standards that are used in and incorporated by reference in the FARR to reflect the most current version of the standards. See Section IV. of this preamble for further discussion of these revisions.

Section 49.124 Rule for limiting visible emissions. This section limits the visible emissions of air pollutants from certain air pollution sources to control emissions of particulate matter. The EPA proposes to revise this section in several respects. First, the EPA is clarifying that the rule limiting visible emissions does not apply to activities associated with single-family residences or residential buildings with four or fewer dwelling units. Although the current rule exempts furnaces and boilers used to heat single family residences and residential buildings with four or fewer dwelling units, the EPA never intended to regulate other emissions associated with residential activities, such as home workshops. The EPA is also clarifying that the rule does not apply to any particulate matter emissions from public roads and not just to fugitive dust from public roads. The EPA did not intend to regulate any emissions from public roads under the FARR. The current rule unintentionally limits the exemption to only fugitive dust. However, there are other emissions that come from roads that do not come from the tailpipe of a motor vehicle or nonroad vehicle, such as emissions associated with the application of dust suppressants. This change clarifies that all particulate emissions from public roads, not only

fugitive dust, are exempt from the visible emission limit.

Second, the EPA is proposing to narrow the exemption for agricultural activities so that orchard heating devices are no longer exempt from the visible emissions limit. An orchard heating device is defined as a fuel burning device capable of being used for frost-prevention or protection in orchards, vineyards, field crops, or truck crops, and includes smudge pots and open-pot heaters. The diesel fuel sometimes used in these devices produces the thick heavy smoke that some believe prevents frost damage. Orchard heating devices are typically used in the spring when plants are budding and an atmospheric inversion traps cold air at the surface. The inversion also traps air pollutants, such as the thick smoke generated by some types of orchard heating devices, and can result in unhealthy levels of air pollution. Under the visible emissions rule currently in effect, orchard heating devices are covered by the exemption for agricultural activities because such devices are used as part of the usual and customary activities in growing crops. The EPA's ongoing evaluation of the FARR and input from Tribes on reservations where orchard heating devices are used identified concerns with air pollution from these unregulated sources of particulate matter.

This proposed revision would therefore require that visible emissions from orchard heating devices not exceed 20% opacity, averaged over any consecutive 6-minute period, and would apply to any person who owns or operates an orchard heating device. We expect that there are categories of orchard heating devices that will not be capable of complying with the 20% opacity standard and this action, if finalized, would therefore effectively prohibit the continued use of such devices. Since the FARR was promulgated in 2005, however, cleaner and more effective methods of orchard heating have become more readily available. Newer alternatives such as propane-powered fans and propane heaters are becoming accepted and reliable alternate methods of orchard heating. These cleaner devices are capable of complying with the visible emission limit and, as such, will help minimize air pollution in areas that are already dealing with high levels of PM_{2.5} and PM₁₀. Other State and local air agencies have similar provisions.

To ensure current users of orchard heating devices that cannot comply with the visible emission standard have adequate time to find alternatives to the use of such devices, the proposed provision of 40 CFR 49.124 requiring that visible emissions from an orchard heating device not exceed 20% opacity would not go into effect until 3 years after this revision is finalized and becomes effective. Furthermore, to ensure that this new requirement does not cause an unreasonable burden on any person, the rule includes a provision that would allow the Regional Administrator to grant a two-year extension (with no limit on the number of extensions) provided that the person demonstrates that there is no alternative that is reasonably available that can comply with the 20% opacity limit. In the interim, the EPA intends to work with Tribal air programs to provide outreach to orchards affected by this rule and identify sources of funding that may help lower the costs for alternate methods of orchard heating.

Section 49.125 Rule for limiting emissions of particulate matter. The purpose of this section is to reduce particulate matter by setting emission limits for certain air pollution sources that operate within an Indian reservation. The EPA is proposing language to clarify that this rule only applies to emissions from a stack as defined in 40 CFR 49.123. The EPA is also proposing to revise the list of sources specifically exempt from this rule in several respects. As with the limitation on visible emissions discussed in 40 CFR 49.124, the EPA never intended to regulate residential activities, such as home workshops under this section. We are therefore proposing to add an exemption for activities associated with single-family residences or residential buildings with four or fewer dwelling units. Second, with the clarification that this rule only applies to particulate matter emissions from a stack, the EPA has deleted open burning from the list of exempt sources, because an open burn, by definition, does not have a “stack.” Third, with the clarification that this rule only applies to particulate matter emissions from a stack, the EPA is adding orchard heating devices to the list of exempt sources. Unlike the Rule for Limiting Visible Emissions (40 CFR 49.124), this rule does not exempt agricultural activities. By its terms, this section applies only to stationary sources with stacks. (see 40 CFR 49.125(d)(1), (2),

and (3)). Most *agricultural activities*, as defined in the FARR, are not subject to the numeric particulate matter emission limits because such activities do not have “stacks” that emit air pollution. However, some orchard heating devices, although within the definition of *agricultural activities*, do have short “stacks.” The EPA is therefore adding orchard heating devices to the list of exemptions so that orchard heating devices will continue to be exempt from the numeric particulate matter emission limits and other requirements of this section. Given that orchard heating devices are relatively small in comparison to many other stationary sources with stacks, are portable, are used only seasonally, and that conducting source testing using the reference test methods in this section on orchard heating devices could be challenging, the EPA believes that limiting particulate matter emissions from orchard heating devices with a limitation on visible emissions under 40 CFR 49.124, rather than a limit on particulate matter emissions, is appropriate.

In addition to proposing to add these two exemptions to the applicability of this section, the EPA is updating the reference method for determining compliance to explicitly provide that EPA Methods 1 through 4, as appropriate, must be used to calculate the volumetric flow, oxygen content, and moisture content of the samples in conjunction with EPA Method 5. Although EPA Method 5 specifies when the use of EPA Methods 1 through 4 are required, the EPA is making the reference explicit in this section for ease of use. A complete description of the test methods discussed in this paragraph can be found in appendix A to 40 CFR part 60.

Finally, the EPA is proposing to correct an inadvertent error in the particulate matter emission limits that resulted from failure to use the same number of significant figures for the grams per dry standard cubic meter (g/dscm) limits and the grains per dry standard cubic feet (gr/dscf) limits. The g/dscm limits had two significant figures whereas the gr/dscf limits only had only one significant figure, which resulted in the limits being slightly different in stringency. EPA is proposing to correct this error by adding a second significant figure to the gr/dscf limits.

Section 49.126 Rule for limiting fugitive particulate matter emissions. This section

limits fugitive particulate matter emissions by requiring reasonable precautions to prevent such emissions. Under the current language of the fugitive particulate matter emissions rule, it is unclear when portable sources, such as portable rock crushers and asphalt plants, are required to conduct their fugitive particulate emission surveys and prepare and update their written plans to prevent fugitive particulate matter emissions. Therefore, the EPA is proposing revisions that specify when the surveys and plans are required to be conducted and submitted for portable sources in a manner that is consistent with the temporary and transient nature of portable sources. For example, the EPA is proposing to specifically require portable sources to conduct a survey within 7 days after beginning operation at a new location and to conduct an annual survey thereafter to identify sources of fugitive particulate matter emissions. Additionally, for portable sources, the written plan specifying the reasonable precautions and procedures to prevent fugitive particulate matter emissions is required prior to beginning operation at a new location and must be updated within 7 days of a completed survey. The EPA is also clarifying that, for all other sources, the written plan to prevent fugitive emissions must be prepared within 30 days after completing the required survey. All plans for subject sources must be reviewed and updated by the owner or operator at least annually after each survey and more frequently if warranted due to changes.

The EPA is also proposing to add language to clarify that the written plan must be implemented as soon as practicable. The current rule requires a source to implement its written plan, including installing any control measures that were identified as reasonable precautions, but does not include language regarding when the plan needs to be implemented.

In addition, if the facility is required to be registered under 40 CFR 49.138, the EPA is proposing to require that a copy of the most recent fugitive particulate matter survey and current fugitive particulate matter plan be submitted with the annual registration. Under the proposed revisions, a new source or new operation will be required to submit a copy of the fugitive particulate matter survey and plan to the EPA within 90 days of beginning operation. The

proposed revisions also provide that sources must maintain a copy of the survey and plan on site.

Lastly, the EPA is proposing to establish that a revision to the plan may be required if the EPA determines that the plan is not adequate to prevent or minimize fugitive particulate matter emissions. All of the proposed revisions are designed to enhance compliance and enforceability of the rule.

Section 49.127 Rule for woodwaste burners. This section phases out the operation of woodwaste burners, and in the interim limits the visible emissions from woodwaste burners. There are no proposed changes to this section except for the revisions with respect to the applicability date discussed here and non-substantive and other administrative changes discussed elsewhere in this preamble. This section continues to only apply on the Colville Reservation and on the Nez Perce Reservation, as shown in Table 2 in section B of this preamble. The effective date of this section for any lands held in trust for the Colville or Nez Perce Tribes that have not been formally designated as a reservation, will be the effective date of the final rule and, as such, any woodwaste burners that are located on such lands will be required to be dismantled within 2 years from the effective date of the final rule.

Section 49.128 Rule for limiting particulate matter emissions from wood products industry sources. The purpose of this section is to limit the condensible particulate matter from high temperature processes at wood products facilities that would not be captured by the test method required for demonstrating compliance with the particulate matter emission limits in 40 CFR 49.125. This section only applies to emission units at wood products facilities that emit at high temperatures. Currently 40 CFR 49.128 specifies that the reference method for determining compliance with the PM₁₀ limits is EPA Method 202 in conjunction with EPA Method 201A. These methods are found in appendix M of 40 CFR part 51.

The EPA is proposing to update the reference method for determining compliance. The EPA is clarifying that EPA Methods 1 through 2H, as appropriate, must be used to calculate the volumetric flow of the samples in conjunction with EPA Methods 202 and 201A. A complete

description of these additional test methods can be found in appendix A to 40 CFR part 60.

This section continues to apply on the Colville Reservation and the Nez Perce Reservation, as shown in Table 2 in Section B of this preamble. The EPA is also proposing that 40 CFR 49.128 be applied on the Coeur D'Alene Reservation because the operations of a wood products facility located on the Coeur D'Alene Reservation may contribute to elevated levels of particulate matter.

Section 49.129 Rule for limiting emissions of sulfur dioxide. This section limits the amount of sulfur dioxide (SO₂) that may be emitted from air pollution sources operating within an Indian reservation. The EPA is proposing to clarify that this rule only applies to emissions from a stack.

As under 40 CFR 49.125 and for the same reasons, we are also proposing to clarify that orchard heating devices are exempt from this section.

The EPA is also proposing to update the reference methods for determining compliance with the SO₂ emission limits established in the current rule. The EPA is clarifying that EPA Methods 1 through 4, as appropriate, must be used to calculate the volume, oxygen content and moisture content of the sample in conjunction with EPA Methods 6, 6A, 6B and 6C. A complete description of these additional test methods can be found in appendix A to 40 CFR part 60.

Section 49.130 Rule for limiting sulfur in fuels. This section limits the amount of sulfur contained in fuels that are burned at stationary sources operating within an Indian reservation to control emissions of SO₂. The EPA is proposing to update the reference methods used to determine compliance with the sulfur emission limits for fuel. We are updating the reference methods in paragraph (e) of this section to incorporate into this rule the most recent versions of the ASTM methods for determining the amount of sulfur in fuel oil or liquid fuels, coal, solid fuels, and gaseous fuels.

In addition, the EPA proposes to revise the sulfur limit for gaseous fuels by deleting the 1.1 grams per dry standard cubic meter (dscm) limit and retaining only the 400 parts per million

(ppm) limit. The current rule establishes a limit for sulfur in gaseous fuels in two different sets of units (grams/dscm and ppm) that were intended to be equivalent in stringency. However, because the proper number of significant figures for the grams/dscm limit were not included when the FARR was promulgated, the two are not equivalent. This resulted in confusion as to whether sources had to comply with both limits, the more stringent limit, or a limit of their choice. The proposed revisions correct this error and make this standard consistent with the EPA's intent in promulgating this emission standard in 2005.

Finally, the EPA is proposing to remove the language in 40 CFR 49.130(f)(1)(iii) that provided sources burning coal or solid fuels the opportunity to request a waiver of the monitoring requirement or request an alternative sampling program because generally applicable language for requesting alternatives and waivers is now included in 40 CFR 49.123 General Provisions.

ASTM standards. In 40 CFR 49.130(g), the EPA is proposing to update the ASTM standards that are used in and incorporated by reference in the FARR to reflect the most current version of the standards. See Section IV. of this preamble for further discussion of these revisions.

Section 49.131 General rule for open burning. This section phases out the operation of woodwaste burners, and in the interim limits the visible emissions from woodwaste burners. There are no proposed changes to this section except for the revisions with respect to the applicability date discussed here and non-substantive and other administrative changes discussed elsewhere in this preamble. This section continues to only apply on the Colville Reservation and on the Nez Perce Reservation, as shown in Table 2 in section B of this preamble. The effective date of this section for any lands held in trust for the Colville or Nez Perce Tribes that have not been formally designated as a reservation, will be the effective date of the final rule and, as such, any woodwaste burners that are located on such lands will be required to be dismantled within 2

years from the effective date of the final rule, as well as in the following burn permit sections.⁴

Section 49.132 Rule for large open burning permits. The FARR promulgated in 2005 had a General rule for opening burning (discussed in 40 CFR 49.131), which specified conditions under which open burning could be conducted but did not require prior approval. The FARR also had a rule setting forth a program for permitting, or granting prior approval of, general open burns. This rule was designed only for Indian reservations where the EPA, in coordination and consultation with the relevant Tribe, determined that a general open burning permitting program was necessary or appropriate, and was generally expected to include a delegation of authority from the EPA to the Tribe, under 40 CFR 49.122 for implementation of the general open burning permit program (67 FR 11748, 11751, March 15, 2002). This general open burning permit rule was promulgated to apply on the Nez Perce Reservation and the Umatilla Indian Reservation. These Tribes have been implementing the rule for general open burning permits on their respective Indian reservations under a delegation with the EPA for more than 15 years.

The EPA is proposing to revise the rule for permitting general open burns by replacing it with three rules for different types of open burns and different types of open burning approval processes: 40 CFR 49.132 Rule for large open burning permits, 40 CFR 49.142 Rule for small open burning annual permits and 40 CFR 49.143 Permit by rule for small open burns. The EPA is proposing these different open burning permit options based on input from these Tribes, other Tribes that have expressed interest in seeking delegation of permitting general open burning on their Indian reservations, and the EPA's experience in working with the delegated Tribes in implementing this rule. The EPA has concluded that options that distinguish between large and small open burns and, for small open burns, allow for an annual permit or coverage under a permit by-rule better allow for the scaling of requirements to the potential air pollution impact of open burns and the resources of implementing agencies.

⁴ The EPA also notes that nothing in the FARR or the proposed revisions restricts the exclusion of air quality monitoring data influenced by exceptional events as provided in 40 CFR 50.14.

Only materials that may be burned under 40 CFR 49.131 General rule for open burning may be burned in a permitted large or small open burn. As under 40 CFR 49.131, compliance with the permitting requirements rests with the person who is conducting the burn as well as the owner and lessee, if any, of the property on which the burn is conducted to ensure parties that may be responsible for burning decisions on a given property are responsible for complying with the burn permitting rules, where applicable.

The proposed “large open burning” permit rule is very similar to the current general open burning permit rule in 40 CFR 49.132. The proposed revisions define a “large open burn” or “large open burning” as the open burning of a single pile of the specified materials greater than 10 feet in diameter or more than 60 feet of ditch bank or fence line vegetation. These are the criteria that have been used by the EPA and delegated Tribal authorities that have been implementing the general open burning permit program under the FARR to distinguish between large and small open burns.

As revised, this section would require that persons subject to the rule must 1) have a permit for large open burning; 2) have approval to burn on the day(s) of the burn(s); 3) ensure that the person conducting the burn is familiar with the requirements of the permit; 4) ensure that the permit is available on-site during the open burn; 5) conduct the open burn in accordance with the terms and conditions of the permit; and 6) comply with the General rule for open burning (40 CFR 49.131) or the EPA-approved Tribal open burning rules in a TIP. To ensure consistency with the use of forms under rules of the Office of Management and Budget, the revisions clarify that the application must be submitted on forms approved by the EPA. The revisions add a requirement that applications for large open burns include a description of the burning method or methods to be used, the amount of material to be burned with each method, and the means of ignition.

The proposed revisions clarify the process for getting approval to burn on the requested days under the permit. The revisions specify that the person conducting the large open burn must

request approval for the burn at least one day before the burn in the manner specified in the permit. As under the current open burning permit rule, in determining whether to authorize a large open burn for a particular day or days, the Regional Administrator or delegated Tribal authority will take into consideration relevant factors including, but not limited to, the size, duration, and location of the proposed open burn; the current and projected air quality conditions; forecasted meteorological conditions; other scheduled burning activities in the surrounding area; and other factors indicating whether or not the proposed open burn can be conducted without causing or contributing to an exceedance of a national ambient air quality standard. When relevant, the Regional Administrator or delegated Tribal authority will also consider whether or not the proposed open burn can be conducted without causing or contributing to any other adverse impact on air quality. These other adverse impacts on air quality would be specific to the particular burn, such as the type of burn and its location, the local meteorology, and the areas expected to be impacted by the smoke. The EPA proposes to add a provision allowing the Regional Administrator or delegated Tribal authority to revoke the approval to burn based on changes in these air quality considerations. In such cases, the permittee would be required, after being contacted about the revocation, to immediately extinguish the fire if safe to do so, discontinue lighting the fire, and withhold additional material such that the fire burns down, as applicable.

The exemptions to the requirement to obtain a large open burning permit are generally the same as the exemptions in the General rule for open burning (40 CFR 49.131) with a few exceptions. Recreational fires meeting the definition of “large open burn” are exempt from permitting. In addition, agricultural burns and forestry and silvicultural burns are exempt from the Rule for large open burning permits (40 CFR 49.132).

The large open burning permit rule will continue to apply on the Nez Perce Reservation and the Umatilla Indian Reservation, as shown in Table 2 in Section B of this preamble. The EPA is also proposing that 40 CFR 49.132 be newly applied on the Yakama Reservation, as

shown in Table 2 of this preamble. The EPA anticipates that the Nez Perce Tribe and the Umatilla Indian Tribe will update their EPA delegation to implement this revised rule on their respective reservations. The EPA also anticipates that the Confederated Tribes and Bands of the Yakama Nation will seek EPA delegation to implement this revised rule on their reservation.

Section 49.142 Rule for small open burning annual permits. The EPA is also proposing to establish a permitting program option requiring an annual permit for “small open burning” within an Indian reservation. The proposed revisions define a “small open burn” or “small open burning” as the open burning of a single pile of the specified materials that is 10 feet or less in diameter or 60 feet or less of ditch bank or fence line vegetation. These are the criteria that have been used by the EPA and delegated Tribal authorities that have been implementing the general open burning permit program under the FARR to distinguish between large and small open burns.

This proposed new rulemaking would require the owner or lessee of property on an Indian reservation where this section applies and on which small open burns will be conducted to apply for and obtain an annual permit for open burning. To ensure consistency with the use of forms under rules of the Office of Management and Budget, the proposed rulemaking specifies that the application must be submitted on forms approved by the EPA. The obligations to comply with the permit and other requirements of this section would extend to any owner and lessee of the property and any person conducting a small open burn on the property. The permit would cover all small open burns conducted at a given property for the calendar year in which it is issued, without the need to apply for and obtain a burn permit for each individual small open burn. Should the owner or lessee of the property covered by the annual permit change within the year, a new application and permit would be required.

To conduct a small open burn under this permit on any particular day, persons subject to this section must 1) ensure that the person conducting the burn is familiar with the requirements of the permit; 2) ensure that the permit is available on-site during the open burn; 3) conduct the

open burn in accordance with the terms and conditions of the permit; 4) comply with the General rule for open burning (40 CFR 49.131) or the EPA-approved Tribal open burning rules in a TIP; and 5) prior to igniting a burn, check whether burning is allowed for the area on that day and complete the burning within the designated time period. The proposed exemptions are generally the same as for large open burning permits.

To determine if burning is allowed under an annual permit on any given day, the Regional Administrator or delegated Tribal authority will identify and publicize each day as a “burn day” or a “no burn day” and, for a burn day, specify the hours and the geographic area for which burning is allowed. When deciding whether to call a burn day, the Regional Administrator or delegated Tribal authority will take into consideration relevant factors, including but not limited to, the current and projected air quality conditions, the forecasted meteorological conditions, other scheduled burning activities in the surrounding area and other factors indicating whether or not open burning can be conducted without causing or contributing to an exceedance of a national ambient air quality standard. When relevant, the Regional Administrator or delegated Tribal authority will also consider whether open burning can be conducted without causing or contributing to any other adverse impact on air quality.

A permit issued under this section expires at the end of the calendar year unless it is revoked prior to that time based on a written notice to the permit holder finding that the permit must be revoked or revised to ensure compliance with this section, 40 CFR 49.131 General rule for open burning or the applicable EPA-approved Tribal open burning rule, or to protect the public health and welfare.

This option for a single permit for all small open burns conducted on a specific property within a calendar year greatly reduces the burden on individuals who would otherwise need to apply for a permit multiple times when conducting more than one burn during the calendar year. Permit issuance once per year also reduces the workload for the EPA and delegated Tribal air

programs, and in turn allows for burn approvals to be processed more quickly, benefiting all parties involved.

In coordination and consultation with the affected Tribes, the EPA is proposing that 40 CFR 49.142 apply on the Umatilla Indian Reservation, as shown in Table 2 in Section B of this preamble. This is, in essence is a continuation of the burn permit program that the Umatilla Indian Tribe has been implementing on its Reservation under a delegation with the EPA for many years. The EPA is also proposing that 40 CFR 49.142 apply on the Yakama Reservation, as shown in Table 2 of this preamble. As with the Rule for large open burning permits (40 CFR 49.132), the EPA anticipates that these Tribes will either update their EPA delegation or seek EPA delegation to implement this new section on their reservation.

Section 49.143 Permit by rule for small open burns. The EPA is also proposing another option for small open burns: a permit by rule that would apply within a specific Indian reservation. Like 40 CFR 49.142 Rule for small open burning annual permits, the obligation to submit an application (referred to in this section as a “request for coverage”) applies to the owner or lessee of the property on which the burning will be conducted, but other compliance obligations extend to any person conducting a small open burn on an Indian Reservation where this section applies, as well as to the owner or lessee of the subject property. The proposed exemptions under both rules are also the same.

In contrast to the Rule for small open burning annual permits (40 CFR 49.142), this section would require the owner or lessee of the property on which small open burning will be conducted to submit a one-time request for approval to burn. This “approval of coverage” under this permit by rule would remain valid for the property until the owner or lessee changes, at which time a new request for approval of coverage would be required. Another key difference from the rule for annual permits for small open burns is that the approval under this permit by rule would be immediately effective, with no explicit approval required by the implementing agency. Note, however, that a request for approval of coverage may be denied if it is not

consistent with the requirements of this section, 40 CFR 49.131 General rule for open burning or the applicable EPA-approved Tribal open burning rule. In addition, prior to conducting a burn on a given day, a person subject to this section must confirm that the day is a “burn day,” as further explained in the following paragraphs.

The owner or lessee of the property on which small open burns will be conducted under this permit by rule must apply for approval of coverage. To conduct a small open burn, persons subject to this section must 1) ensure that the person conducting the burn is familiar with the requirements of the approval of coverage; 2) ensure that the approval of coverage is available on-site during the open burn; 3) conduct the open burn in accordance with the approval of coverage; 4) comply with the General rule for open burning (40 CFR 49.131) or the EPA-approved Tribal open burning rules in a TIP; and 5) prior to igniting a burn, check whether burning is allowed for the area on that day and complete the burning within the designated time period.

As under the Rule for small open burning annual permits (40 CFR 49.142), to determine if burning is allowed on any given day, the Regional Administrator or delegated Tribal authority will identify and publicize each day as a “burn day” or a “no burn day” and for a burn day, specify the hours and the geographic area for which burning is allowed. When deciding whether to call a burn day, the Regional Administrator or delegated Tribal authority will take into consideration relevant factors including, but not limited to, the current and projected air quality conditions, the forecasted meteorological conditions, other scheduled burning activities in the surrounding area and other factors indicating whether or not open burning can be conducted without causing or contributing to an exceedance of a national ambient air quality standard. When relevant, the Regional Administrator or delegated Tribal authority will also consider whether open burning can be conducted without causing any other adverse impact on air quality.

This proposed rulemaking is also expected to reduce the burden on individuals of filling out multiple burn applications when conducting more than one burn during the period of property ownership, as well as the burden on the EPA and the delegated Tribe in implementing

the permit program. The reduction in burden would be expected to be even greater than under the Rule for small open burning annual permits (40 CFR 49.142) because the application process is a one-time action and no action by the implementing agency is required to make the approval of coverage under the permit by rule effective as to a specified property.

In coordination and consultation with the affected Tribe, the EPA is proposing that 40 CFR 49.143 apply on the Nez Perce Reservation, as shown in Table 2 in Section B of this preamble. As with the other burn permit rules, the EPA anticipates that the Nez Perce Tribe will update their EPA delegation to implement this burn permit program on its reservation.

Section 49.133 Rule for agricultural burning permits. This section establishes a permitting program for agricultural burning within an Indian reservation. As with the previous open burning permit rules, the EPA is proposing to expand the applicability of this section to apply to lessees of land on which agricultural burning is conducted to ensure parties that may be responsible for burning decisions on a given property are responsible for complying with the requirements of this section. To ensure consistency with the use of forms under rules of the Office of Management and Budget, the revisions clarify that the application must be submitted on forms approved by EPA. The EPA is clarifying the air quality criteria considered in determining whether a burn permit will be issued consistent with the same criteria in 40 CFR 49.132 Rule for large open burning permits. Consistent with the other burn permit rules, the revisions provide that an application must be submitted at least 1 day prior to the proposed burn. The EPA is also clarifying that the permit authorizes burning only for the date(s) and time(s) specified in the permit, the procedures for obtaining approval to burn under the permit, and that the permit may include other necessary provisions to ensure compliance with 40 CFR 49.131 General rule for open burning or the EPA-approved applicable Tribal open burning rule, as well as to protect health and welfare.

This section continues to apply on the Nez Perce Reservation and the Umatilla Indian Reservation, as shown in Table 2 in Section B of this preamble. The EPA is also proposing that

40 CFR 49.133 be newly applied on the Yakama Reservation, as shown in Table 2 of this preamble. The EPA anticipates that the Nez Perce Tribe and the Umatilla Indian Tribe will update their EPA delegations to implement this revised section on their Indian reservations. The EPA also anticipates that the Confederated Tribes and Bands of the Yakama Nation will seek EPA delegation to implement this revised section on their reservation.

Section 49.134 Rule for forestry and silvicultural burning permits. This section establishes a permitting program for forestry and silvicultural burning within an Indian reservation. The EPA is proposing the same revisions to this section as to the Rule for agricultural burning permits (40 CFR 49.133).

As discussed in section D. of this preamble, Relationship between Part 49, Subpart C and Subpart M, this rulemaking does not apply on all reservations, as does the General Rule for Open Burning (40 CFR 49.131), but instead applies on those reservations where it was determined that a permitting program, in addition to the General Rule for Open Burning (40 CFR 49.131), is appropriate to better assure that emissions from forestry and silvicultural burning do not cause or contribute to a violation of the NAAQS. Importantly, although this rule requires, where it applies, permits for prescribed fires as that term is defined in the rule for “Treatment of Air Quality Monitoring Data Influenced by Exceptional Events” (40 CFR 50.14), 40 CFR 49.134 is not a smoke management program, nor does it require burn managers to employ basic smoke management practices as listed in Table 1 to 40 CFR 50.14. However, as previously noted, nothing in the FARR or the proposed revisions restricts the exclusion of air quality monitoring data influenced by prescribed fires that meet the criteria set forth in 40 CFR 50.14(b)(3).

This section continues to apply on the Nez Perce Reservation and the Umatilla Indian Reservation, as shown in Table 2 in Section B of this preamble. As with the Rule for agricultural burning permits (40 CFR 49.133), the EPA anticipates that these Tribes will update their EPA delegation to implement this revised section on their Indian reservations.

Section 49.135 Rule for emissions detrimental to public health or welfare. Under this section, an owner or operator of an air pollution source is not allowed to cause or allow the emission of any air pollutants, in sufficient quantities and of such characteristics and duration, that the Regional Administrator determines 1) causes or contributes to a violation of any NAAQS, or 2) is presenting an imminent and substantial endangerment to public health or welfare, or the environment. This section provides the EPA with the authority to require the installation of air pollution controls or other measures in order to reduce emissions to protect the NAAQS or prevent imminent and substantial endangerment. The section currently allows the EPA to require such controls through either a permit to construct or a non-Title V operating permit under 40 CFR 49.139. Since the FARR was enacted, the EPA has promulgated rules for permits to construct in Indian country (the Indian Country Minor NSR rules at 40 CFR 49.151 through 49.164 and the Federal Major New Source Review Program for Nonattainment Areas in Indian Country at 40 CFR 49.166 through 49.173). Region 10 has determined that it is not appropriate to use permits to construct to implement 40 CFR 49.135 because the Indian Country Minor NSR rules apply only to projects at existing sources that increase emissions and do not include provisions for the permitting authority to require reductions in emissions when there is not a proposed modification to the existing source. Therefore, the EPA is proposing to remove permits to construct as an option for implementing this section. Requirements under this section would be established solely through issuance of a non-Title V operating permit under 40 CFR 49.139.

This provision currently provides that nothing in the provision shall be construed to impair any cause of action or legal remedy of any person, or the public, for injury or damages arising from the emission of any air pollutant in such place, manner, or amount as to constitute a common law nuisance. The EPA is proposing to revise the reference to “common law nuisance” to “nuisance under any other applicable law” to ensure this provision includes applicable statutory and regulatory nuisance provisions as well as common law nuisance.

Section 49.137 Rule for air pollution episodes. This section establishes procedures for preventing and addressing the excessive buildup of certain NAAQS pollutants within an Indian reservation to prevent the occurrence of an air pollution emergency. It establishes criteria for issuing air stagnation advisories. It also establishes air pollution action levels and the action level triggers (air quality levels) that are used for the declaration of an air pollution alert, air pollution warning, or air pollution emergency. The current air pollution action level triggers are based on 40 CFR part 51, appendix L (Example Regulations for Prevention of Air Pollution Emergency Episodes) and currently do not include action level triggers for PM_{2.5}.

We are proposing to revise the current action level triggers for the three action levels (air pollution alert, air pollution warning, and air pollution emergency) to align with the Air Quality Index (AQI) categories (unhealthy, very unhealthy, and hazardous) and the associated concentration thresholds. The AQI categories and concentration thresholds are found in Table 2 of 40 CFR part 58, appendix G, Uniform Air Quality Index and Daily Reporting. This revision will also add action level triggers for PM_{2.5}. Based on input from Tribes, and after careful consideration, the EPA is proposing this approach for several reasons. First, if the NAAQS and corresponding AQI categories and concentrations are ever revised, the more generalized language would automatically be up to date. Second, the AQI is based on short term concentrations, which are more appropriate for action level triggers. Finally, the action level triggers will now better align with the health messaging associated with the AQI categories and concentrations, which are publicly available and widely used. The EPA is also clarifying that air pollution alerts, air pollution warnings, and air pollution emergencies can be declared under situations other than just periods of stagnant air such as high wind events associated with dust storms and wildfires. Finally, the EPA is proposing revisions to update the description of the methods the EPA will consider in order to announce an air stagnation advisory, an air pollution alert, an air pollution warning, or an air pollution emergency, such as posting the announcement to Region 10's social media, and to clarify the method for terminating a declaration.

Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions. Under the current rules, any person who owns or operates a 40 CFR part 71 source, a source subject to a standard under CAA sections 111 or 112, or any other air pollution source not expressly exempted from this section is required to annually register the source with the EPA and report emissions. This section was intended to ensure a current and accurate record of the emissions from non-trivial air pollution sources operating within an Indian reservation is developed and maintained. Subject sources were required to register by February 15, 2007, and “new air pollution sources” must register within 90 days after beginning operation. A “new air pollution source” is currently defined as a source that begins actual construction after the effective date of the original rule (70 FR 18074, June 7, 2005). Any other source is considered an existing source.

Shortly after the EPA began implementing 40 CFR 49.138, it became apparent that the rule was unintentionally overbroad. Because 40 CFR 49.138 is structured such that the 2 ton per year emissions exemption applies only to “any other air pollution source,” the current language could be read to require very small sources subject to CAA section 111 or section 112 standards to register. For example, the current rule language could require wood stoves and small emergency generators subject to New Source Performance Standards under section 111 to register. This section could also be read to require some sources subject to National Emission Standards for Hazardous Air Pollutants under CAA section 112 to register even though they would have no (or trivial) emissions of the air pollutants that are required to be reported under the registration rule.

To address this unintended consequence, Region 10 issued an interpretative guidance document in 2005 to clarify the EPA’s expectation that non-Title V sources that were subject to CAA section 111 or 112 standards were required to register only if they had the potential to emit

more than 2 tons per year of any of the listed air pollutants.⁵ In this rulemaking, Region 10 is proposing to revise 40 CFR 49.138 to be consistent with this interpretation. We are proposing to remove the language that required sources subject to CAA section 111 or 112 standards to register regardless of the level of emissions and are proposing to add language that any air pollutant source that has the potential to emit more than 2 tons of the listed air pollutants is required to register unless it is covered by one of the categorical exemptions. Because the 2 ton per year criterion would be an applicability provision, we are proposing to remove that criterion from the list of exemptions.

In addition to this change, we are proposing revisions to the registration rule to be generally consistent with the applicability provisions of the Indian Country Minor NSR Rule (40 CFR 49.151 through 49.164), which was promulgated after the FARR was promulgated in 2005 and which applies to new and modified minor stationary sources and to minor modifications at existing major stationary sources where the increase in emissions is above specified thresholds. Currently, the FARR registration rule includes sources required to have 40 CFR part 71 operating permits in the list of sources required to register. Since the Indian Country Minor NSR Rule was promulgated after the 2005 promulgation of the FARR, the EPA is proposing to revise the applicability criteria in 40 CFR 49.138 to include sources required to have a permit under the Indian Country Minor NSR Rule, as well as sources required to have a non-Title V operating permit under 40 CFR 49.139. These additions will help accomplish the goal of this section (ensuring a current and accurate inventory of emissions from non-trivial air pollution sources) by requiring all sources on Indian reservations that are required to have permits under the Clean Air Act to register under the FARR.

The EPA is also proposing revisions to the list of sources specifically exempt from the registration rule. The registration rule contains a list of source categories that are exempt from

⁵ “Determining if Your Business Needs to Register with EPA as an Air Pollution Source,” EPA Region 10 (October 5, 2005).

registration because emissions from sources in the category are likely to be trivial (e.g., consumer use of office equipment and products) or because a registration program is not appropriate for sources in the category (e.g., mobile sources). When the EPA promulgated the Indian Country Minor NSR Rule, it exempted from the program various emissions units and activities that were based, in part, on the FARR registration exemptions but included some additional categorical exemptions that are not currently in the FARR registration rule. See 40 CFR 49.153(c). The EPA has considered these additional categories and is proposing to add two of them to the FARR registration rule: 1) emergency generators, designed solely for the purpose of providing electrical power during outages, provided the total maximum manufacturer's site-rated horsepower of all units is below 1000; and 2) stationary internal combustion engines with a manufacturer's site rated horsepower of less than 50. Although the potential to emit pollutants of such units would likely be less than the 2 ton per year applicability threshold, adding them to the list of categorically exempted sources reduces the burden of having to do emission calculations to confirm the exemption.

Another area of revisions to this rule relates to the date by which registration is required. As discussed previously in section C of this preamble, the EPA is proposing to extend the requirements of this section to the Cowlitz Indian Reservation, the Snoqualmie Indian Reservation, and lands held in trust for the Samish Indian Nation and to clarify that this rule also applies to all lands held in trust for a Tribe in Idaho, Oregon, and Washington that have not been formally designated as a reservation. The EPA is therefore revising the registration provision to provide a date by which existing sources in such areas are required to register. Under the proposed revisions, subject sources located on the Tribal lands listed in this section in existence on the effective date of the FARR revisions would be required to register by no later than 6 months after the effective date of FARR revisions. "New air pollution sources" continue to be required to register within 90 days after beginning operation. The EPA has also revised the definition of "new air pollution source" to accommodate the additional Tribal lands proposed for

coverage under these FARR revisions. All subject sources continue to be required to re-register each year and provide updates on any changes to the information provided in the previous registration and promptly report any changes in ownership, location, or operation.

The EPA is also proposing to update provisions specifying the information required to be submitted in the initial and annual registration to include more commonly used current technology (e.g., email rather than facsimile, Global Positioning System coordinates rather than latitude and longitude). We are also proposing to require that the copy of the most recent fugitive particulate matter survey and current fugitive particulate matter plan be submitted with the registration to better assure compliance with the requirements of 40 CFR 49.126 Rule for limiting fugitive particulate matter emissions.

The EPA is also proposing to update the method for submitting the initial and annual registrations. Currently, all registrants can register and report either through a paper application or through the FARR Online Reporting System (FORS). The online database was implemented in 2016 to simplify the registration process from year to year. Through the online database, the EPA is collecting the same information from facilities as it does from paper registrations. The benefits of the online registration include improved recordkeeping by allowing better and faster access to previous registrations, populating each annual registration with existing, basic information about the facility and decreasing the amount of time and resources needed to report emissions after initial registration. In 2016 (the emission reporting year for calendar year 2015), when FORS became the preferred method of registration, 88 facilities out of a total of 154 facilities, or 57%, registered online. In 2020 (the emission reporting year for calendar year 2019), approximately 117 facilities out of 138 facilities, or 85%, chose to register online. As the Federal government moves toward e-government, in an attempt to streamline and simplify current procedures through electronic reporting, Region 10 is proposing to require all registration information and reports be submitted online through FORS within the EPA's Central Data Exchange (CDX), at <https://cdx.epa.gov>. Exceptions will be made if a facility attains prior

written approval from Region 10 to submit a paper application.

The EPA is also proposing clarifying revisions to the requirement to report any relocation of the source in 40 CFR 49.138 (d)(5). As revised, 40 CFR 49.138 makes clear that report of relocation is required whether the relocation is within, off, or onto an Indian reservation, but that more limited information is required to be reported when the source is moving to a site outside of an Indian reservation in Idaho, Oregon, and Washington. EPA notes that relocation of a source may also trigger preconstruction permitting requirements. In addition, EPA is making a revision to the report of closure to clarify that the report must include the actual emissions through the date of closure.

Finally, for sources subject to 40 CFR part 71, we are eliminating the requirement to submit information already required by 40 CFR part 71 reporting requirements. The EPA is proposing to revise 40 CFR 49.138 to clarify that the only requirements of this section applicable to 40 CFR part 71 sources are the requirement to submit estimates of total actual emissions from the air pollution source and the requirement to submit a copy of the most recent fugitive particulate matter survey and plan as required under 40 CFR 49.126. The EPA is also proposing revisions to require that 40 CFR part 71 sources report the specified information by February 15 of each year (the same date as all other sources subject to the registration rule) rather than the date that their 40 CFR part 71 reports are due. 40 CFR part 71 required reports are now often submitted online through CEDRI within the EPA's Central Data Exchange (CDX), at <https://cdx.epa.gov>. Finally, the EPA is proposing that the owner or operator of a 40 CFR part 71 source submit reports of a change in ownership and closure, as applicable, because this information is not routinely required in a 40 CFR part 71 permit.

Section 49.139 Rule for non-Title V operating permits. This section provides a permitting program to establish Federally-enforceable requirements for air pollution sources on Indian reservations. In this rulemaking, the EPA is proposing to rescind a duplicative provision

of this section pertaining to certain owner-requested limits and to add administrative procedures to clarify the process for issuing or revising a permit.

This rulemaking, as currently written, provides for the issuance of a permit containing Federally-enforceable requirements in the following three situations: 1) the owner or operator of any source wishes to obtain a Federally-enforceable limitation on the source's actual emissions or potential to emit; 2) the Regional Administrator determines that additional Federally-enforceable requirements for a source are necessary to ensure compliance with the applicable implementation plan, which would include any applicable FIP or TIP; or 3) the Regional Administrator determines that additional Federally-enforceable requirements for a source are necessary to ensure the attainment and maintenance of any NAAQS or Prevention of Significant Deterioration (PSD) increment.

On July 1, 2011, the EPA promulgated the Indian Country Minor NSR Rule, which includes provisions for establishing synthetic minor permits in Indian country (40 CFR 49.158). The rule defines "synthetic minor source" as a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above those for major sources in 40 CFR 49.167, 40 CFR 52.21 or 40 CFR 71.2, but that has taken a restriction so that its potential to emit is less than such amounts for major sources. 40 CFR 49.152(d). In promulgating the Indian Country Minor NSR Rule, the EPA stated that sources seeking synthetic minor status within the exterior boundaries of Indian reservations in Idaho, Oregon, and Washington must apply for synthetic minor source permits under the provisions of that rule and may no longer seek limits to become a "synthetic minor source" under the FARR (76 FR 38748, 38749, July 1, 2011). To be consistent with the Indian Country Minor NSR Rule, the EPA is proposing to rescind the provisions of 40 CFR 49.139 that are superseded by 40 CFR 49.158 of the Indian Country Minor NSR Rule and to add language making clear that applications for owner-requested synthetic minor limits must be submitted under 40 CFR 49.158 of the Indian Country Minor NSR Rule. For the same reason, we are proposing to delete the provision that

authorizes owner-requested limits to be established in permits under 40 CFR part 71 or a Tribal operating permit program approved under 40 CFR part 70. The proposed revisions will now limit the application of 40 CFR 49.139 to the owner or operator of any air pollution source who wishes to obtain a Federally-enforceable limitation on the source's emissions that cannot be obtained under the Indian Country Minor NSR Rule (40 CFR 49.151 through 49.173). Examples of such situations include federally-enforceable limits to implement netting or offsets because the Indian Country Minor NSR Rule defines "synthetic minor source" as including only those sources that take a limit on potential to emit "so that its potential to emit is less than such amounts for major sources." 40 CFR 49.152(d).

The EPA is also proposing to broaden the applicability provisions of 40 CFR 49.139 to provide Region 10 the authority to require a source to obtain a non-Title V operating permit where the Regional Administrator determines that additional Federally-enforceable requirements are necessary to implement or ensure compliance with any other provisions of the Clean Air Act (e.g., regional haze). The EPA anticipates that such situations are likely to be extremely rare. In the more than 15 years since the FARR has been in effect, the EPA has not found it necessary to require a source to obtain a permit under 40 CFR 49.139. Having that authority available through a permit issuance process, should the need arise, however, would avoid the far more resource intensive process of promulgating a source-specific FIP to address an air quality issue.

We are also proposing to revise the existing administrative procedures for issuing non-title V operating permits and to add provisions for reopening and revising such permits. The Indian Country Minor NSR rule has detailed procedures for issuing, reopening, and revising Clean Air Act permits on Indian reservations. For administrative efficiency, the EPA is proposing to use generally the same procedures for issuing, reopening, and revising non-title V operating permits. The EPA has also added a proposed definition of "non-title V operating permit," defined as a permit issued by the Regional Administrator under this section.

Section 49.140 Rule for residential wood burning devices. The EPA is proposing to

add a rule regulating the installation of certain residential wood burning devices and limiting what fuels can be burned in such devices in order to control the emissions of particulate matter and other pollutants to the atmosphere. In many areas of the Pacific Northwest, smoke from residential wood burning devices is a significant source of PM_{2.5} and PM₁₀ emissions. Regulating residential wood burning devices and the burning in such devices therefore helps protect air quality.

The proposed rulemaking would prohibit, after the effective date of the rule, the installation of new and used residential wood heaters, hydronic heaters, forced air furnaces, or central heaters unless they have been certified by the EPA to meet the applicable particulate matter emission standards for woodfired heating devices established in the Standards of Performance for New Residential Wood Heaters (40 CFR part 60, subpart AAA) and the Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces (40 CFR part 60, subpart QQQQ) as amended in 2015 (80 FR 13672, March 16, 2015), or any later promulgation of these standards, and have a permanent label affixed to the device as provided in 40 CFR 60.536 or 40 CFR 60.5478. Certified wood burning devices generate less smoke (fewer particulates) than non-certified wood burning devices and use less wood to create heat, improving air quality in communities where people burn wood for heat. Individuals living on Indian reservations would be able to continue using uncertified and older certified residential wood heaters, hydronic heaters, forced air furnaces, or central heaters as long as the devices were installed prior to the effective date of this new rule. The proposed rulemaking is more protective of air quality and would better reduce particulate matter from residential wood burning devices in comparison to requirements in surrounding jurisdictions that allow installation of any certified residential wood burning device. The EPA is therefore also proposing, in the alternative, a rule more consistent with surrounding jurisdictions and that would prohibit the installation of new and used residential wood heaters, hydronic heaters, forced air furnaces, and central heaters unless they have been certified by the EPA to meet the applicable particulate matter emission

standards for woodfired heating devices established in the Standards of Performance for New Residential Wood Heaters (40 CFR part 60, subpart AAA) and Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces (40 CFR part 60, subpart QQQQ), and have a permanent label affixed to the device as provided in 40 CFR 60.536 or 40 CFR 60.5478. In effect, the proposal in the alternative would allow the installation of any new or used residential wood heater, hydronic heater, forced air furnace, or central heater that has been certified by the EPA since subparts AAA and QQQQ were first promulgated.

The EPA is requesting comment specifically on whether the proposed rulemaking or the proposed alternative should be finalized in order to regulate the installation of new and used residential wood heaters, hydronic heaters, forced air furnaces, and central heaters on Indian reservations in Idaho, Oregon, and Washington. In taking final action, EPA will consider the input we receive regarding the benefits of enhanced environmental protection and the benefits of consistency with surrounding jurisdictions.

This proposed rulemaking would also limit materials that can be burned in all existing and newly installed types of residential wood burning devices (including fireplaces) to: 1) seasoned firewood, which is firewood that has a moisture content of 20% or less; 2) kiln dried or air dried lumber that has not been treated, impregnated, painted or coated; 3) products manufactured for the purpose of being used as a fuel for a residential wood burning device, such as wood pellets and biomass fire logs intended for burning in a wood stove or fireplace; and 4) manufactured fire starters and paper sufficient to start a fire.

These new requirements are consistent with the intent of the FARR: to ensure that residents within the boundaries of Indian reservations enjoy air quality protection similar to those existing outside reservations. Over the years, many jurisdictions on State lands outside of Indian reservations have similarly banned the installment of uncertified wood burning devices and limited material that can be burned in residential wood burning devices. This proposed section would therefore help ensure a similar degree of protection from environmental and health

hazards on Indian reservations as in neighboring areas.

Section 49.141 Rule for curtailment of residential wood burning devices for specific areas. The EPA is proposing to require the curtailment of residential wood burning devices (commonly referred to as “burn bans”) during periods of poor air quality in specific geographical areas on certain Indian reservations with demonstrated elevated concentrations of particulate matter. This prohibition would apply to wood stoves and similar wood burning devices as well as to fireplaces. In some areas of Indian reservations in Idaho, Oregon, and Washington, stagnant air and use of wood burning devices, particularly in winter, drive particulate matter concentrations to elevated levels, causing concern for human health. Fine particles can make asthma symptoms worse and trigger asthma attacks. Fine particles can also trigger heart attacks, stroke, irregular heart rhythms and heart failure, especially in people who are already at risk for these conditions. As discussed in section I.B of this preamble, PM_{2.5} concentrations that exceed the NAAQS over a 3-year period can result in a “nonattainment” designation under the CAA, which in turn can result in more stringent air pollution reduction measures. A burn ban rule would help areas with elevated PM_{2.5} levels take proactive steps to avoid a “nonattainment” designation. Many State and local air agencies in the Pacific Northwest have curtailment programs for residential wood heating devices with procedures, conditions, and exemptions similar to those the EPA is proposing.

This proposed curtailment program establishes two burn ban stages. During a Stage 1 ban, only EPA-certified residential wood burning devices are permitted to be used. During a Stage 2 ban, no wood burning devices, even EPA-certified devices, are permitted to be used. A residence that self-certifies that wood is the sole source of heat or that the use of an available alternative heat source would impose an economic hardship would be exempt from both stages of burn bans. This exemption would remain in effect for 5 years from the date of self-certification, unless there is a change to the qualification status of the residence covered by the exemption. A “Self-Certification” exemption form will be available on Region 10’s website and

other locations and must be completed and kept on site for any residence relying on this exemption.

The EPA is proposing a phased in approach for implementation and enforcement of this rule. The first year after promulgation, the EPA or delegated Tribe will run a voluntary curtailment program to help familiarize homeowners with the curtailment program. The mandatory curtailment program will begin October 1st of the 2nd calendar following the year of promulgation of this rulemaking for a particular reservation. After the implementation date, the EPA and delegated tribes will continue to focus on compliance assistance work. This will be in the form of assistance, outreach, and education, in partnership with affected Tribes regarding the new rules, the process for certifying for exemption status and the adverse health effects of high particulate matter levels.

After coordination and consultation with the affected Tribes, for the reasons explained in section B of this preamble, the EPA is proposing that 40 CFR 49.141 apply on the Colville, the Nez Perce and the Yakama Reservations, as shown in Table 2 in Section B of this preamble. The EPA anticipates that each of these Tribes will seek EPA delegation to implement this section on their reservations.

B. Rules Proposed for Specific Indian Reservations

As discussed in section A of this preamble, the EPA is proposing to promulgate several rules that would only apply on specific Indian reservations where the EPA finds, in coordination and consultation with the relevant Tribes, that the rules are necessary or appropriate. This is consistent with the approach under the FARR as promulgated in 2005, in which the EPA promulgated one or more additional rules on the Colville, Nez Perce, and Umatilla Reservations. Except as otherwise noted in this section, the additional rules promulgated for the specified Indian reservations in 2005 remain in effect, to be revised as proposed in this rulemaking.

This section summarizes the new rules that the EPA proposes to apply to specified Indian reservations, as well as existing rules (in some cases with proposed revisions) that the EPA

proposes to apply to additional Indian reservations. In each case, the proposed additional rules are intended to regulate activities that contribute to elevated particulate matter concentrations in areas where there are air quality concerns. As in promulgating additional rules to apply on specified Indian reservations when the FARR was promulgated in 2005, the EPA is basing the determination of whether the additional rules proposed in this action are necessary or appropriate for a particular Indian reservation on a number of factors, including the prevalence of the activity on the reservation, the significance of the resulting pollution on air quality in the area and adjacent airsheds, and whether the Tribe has Tribal laws to control this type of pollution (67 FR 11748, 11755 March 15, 2002). These proposed regulations would be part of FIPs for specific Indian reservations as specified in subpart M of this part.

For the new 40 CFR 49.141 Rule for curtailment of residential wood burning devices for specific areas, the EPA evaluated PM_{2.5} air quality monitoring data on or near reservations in Idaho, Oregon, and Washington to assess which reservations had elevated wintertime PM_{2.5} levels. The EPA also received input from Tribes about the prevalence of wood burning devices on their reservations, the contribution of wood burning devices on their reservations to elevated PM_{2.5} levels, and existing efforts to address wood burning devices in the airsheds of concern. Based on this information, the EPA determined it is appropriate to propose to apply 40 CFR 49.141 Rule for curtailment of residential wood burning devices for specific areas, on the Colville, Nez Perce, and Yakama Reservations.

Table 2 of this section lists the “additional” rules the EPA is proposing to apply on five Indian reservations where the EPA has found, in coordination and consultation with the relevant Tribes, that it is appropriate to establish these specific requirements in their FIPs in order to control particulate matter pollution, as well as the additional rules that will continue to apply, as revised, on the specified Indian reservations. There are currently no additional rules that apply on the Yakama Reservation. The EPA is proposing that 40 CFR 49.132 Rule for large open burning permits, 40 CFR 49.133 Rule for agricultural burning permits, 40 CFR 49.141 Rule for

curtailment of residential wood burning devices for specific areas, and 40 CFR 49.142 Rule for small open burning annual permits apply on the Yakama Reservation, as shown in Table 2. As discussed in section A of this preamble, the EPA is proposing that 40 CFR 49.128 Rule for limiting particulate matter emissions from wood products industry sources be applied on the Coeur D’Alene Reservation because the operations of a wood products facility located on the Coeur D’Alene Reservation may contribute to the elevated levels of PM_{2.5} in St. Maries, Idaho.

Additional information supporting the proposed additional rules for the specified Indian reservations, shown on Table 2 and marked with an asterisk, is included in the docket for this proposal.

TABLE 2 – Additional Rules⁶

Section #	Additional Rules
Coeur D’Alene Reservation, Idaho	
§ 49.128*	Rule for limiting particulate matter emissions from wood products industry sources
Colville Reservation, Washington	
§ 49.127	Rule for woodwaste burners
§ 49.128	Rule for limiting particulate matter emissions from wood products industry sources
§ 49.141*	Rule for curtailment of residential wood burning devices for specific areas
Nez Perce Reservation, Idaho	
§ 49.127	Rule for woodwaste burners
§ 49.128	Rule for limiting particulate matter emissions from wood products industry sources
§ 49.132†	Rule for large open burning permits
§ 49.133	Rule for agricultural burning permits
§ 49.134	Rule for forestry and silvicultural burning permits
§ 49.141*	Rule for curtailment of residential wood burning devices for specific areas
§ 49.143†	Permit by rule for small open burns
Umatilla Indian Reservation, Oregon	
§ 49.132†	Rule for large open burning permits
§ 49.133	Rule for agricultural burning permits
§ 49.134	Rule for forestry and silvicultural burning permits
§ 49.142†	Rule for small open burning annual permits

⁶ The additional rules marked with an asterisk (*) are the new or existing rules that the EPA proposes be newly applied to the specified Indian reservations in this rulemaking. With respect to the additional rules marked with a dagger (†), the large and specified small open burn permitting rules replace § 49.132, Rule for general open burning permits, which previously applied on the Nez Perce and Umatilla Reservations. Rules that are not so marked are currently in effect on the specified Indian reservations, and the EPA is proposing that the revisions to these additional rules discussed in Section II.A. of this preamble be adopted for such reservations.

Yakama Reservation, Washington	
§ 49.132*	Rule for large open burning permits
§ 49.133*	Rule for agricultural burning permits
§ 49.141*	Rule for curtailment of residential wood burning devices for specific areas
§ 49.142*	Rule for small open burning annual permits

C. Environmental Justice

On February 11, 1994, the President issued Executive Order 12898 entitled, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." The Executive Order calls on each Federal agency to make environmental justice (EJ) a part of its mission by "identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on people of color and low-income populations." On January 20, 2021, the President issued Executive Order 13985: "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government."⁷ The Executive Order calls on each Federal agency to "pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality." Additionally, the EPA expressed a commitment to conducting environmental justice analysis for rulemakings as described in the April 30, 2021 revisions to the Cross-State Air Pollution Rule (CSAPR).⁸

The EPA defines EJ as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. As outlined in the EJ Technical Guidelines, the goal of an EJ analysis is to evaluate, to the extent possible,

⁷ Available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-Federal-government/>, accessed July 16, 2021.

⁸ 86 FR 23054, 23162 (April 30, 2021) ("Going forward, EPA is committed to conducting environmental justice analysis for rulemakings based on a framework similar to what is outlined here, in addition to investigating ways to further weave environmental justice into the fabric of the rulemaking process including through enhanced meaningful engagement with environmental justice communities.").

three questions: Are there potential EJ concerns for populations living in proximity to sources affected by the rule in the baseline?; Are there potential EJ concerns for population groups of concern for the regulatory option(s) under consideration?; Are potential EJ concerns created or mitigated under the options under consideration compared to the baseline? The determination of whether there is a potential disproportionate impact that may merit Agency action is ultimately a policy judgment informed by analysis.⁹ These rules are designed to protect human health and air quality resources in Indian reservations in Idaho, Oregon, and Washington. These reservations often have communities with very low per capita incomes relative to the U.S. average with large percentages of the population below the poverty line, so many communities where these rules apply tend to be communities with low income and minority populations. However, the rules will not impose any negative environmental impacts on these populations. Instead, the rules provide additional protections for communities that include overburdened populations. Because the rules will improve health and provide additional protections for such communities, the EPA has not undertaken a detailed, formal analysis of the environmental justice impacts of this action.

D. Costs and Benefits Associated with these Rules

As part of developing the proposed revisions, the EPA conducted an analysis of the expected costs should these rules be adopted. Included in the docket for this rulemaking is the Economic Impact Analysis (EIA) and the Information Collection Request (ICR) documents for the proposed revisions. The EIA was prepared to assist the EPA in estimating the costs of compliance for the proposed revisions alongside updated 2021 costs for the initial FARR. The ICR describes the recordkeeping and reporting information that will be collected under the revised FARR and related “burden.” “Burden” refers to the total time, effort, or financial

⁹ According to the EPA’s June 2016 *Technical Guidance for Assessing Environmental Justice in Regulatory Analysis*, page 66 and Section 2.1, the term “disproportionate impacts” refers to differences in impacts or risks that are extensive enough that they may merit Agency action. The determination of whether there is a disproportionate impact that may merit Agency action is a policy judgment informed by analysis of any discernable differences in anticipated impacts from the rulemaking on population groups of concern compared to all other population groups.

resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

With the exception of making orchard heating devices subject to the visible emissions limit, the EPA's preliminary conclusion is that there will be no capital costs incurred to comply with any of the new or revised rules. With respect to the geographic extension of the FARR, we are not aware of any sources in these areas that would require additional control or monitoring equipment to comply with the FARR, as revised. With respect to the open burning rules, open burning permit rules, and wood burning devices curtailment rules, we also do not expect any capital costs will be needed to comply with the proposed revisions. The EPA anticipates that 40 CFR 49.140 Rule for residential wood burning devices, which regulates the installation of used wood burning devices, would impose negligible additional costs overall. This is because, although the cost difference between an older used wood burning device and post-2015 EPA certified wood burning device could be approximately \$3,500, we anticipate very few older used wood burning devices would have been installed even if the EPA did not promulgate this prohibition. This is based on information we received from Tribes during the development of the proposed rulemaking. One example provided was where a resident gives a used stove that was removed from their residence to a family member to install in a different residence or structure like a recreational cabin. Although this may occur, it is expected to be an uncommon event so our overall cost estimate is based on an average of 15 installations per year of older (pre-2015) used wood heating devices that would no longer be allowed under the proposed rulemaking. That

number would be even lower under the proposed alternative, which would allow used post-1990 certified wood heating devices to be reinstalled.

In response to a request from the OMB, the EPA conducted a benefits analysis specifically looking at 40 CFR 49.141 Rule for curtailment of residential wood burning devices for specific areas. The analysis includes a conservative estimate of the monetary benefits of this proposed rulemaking based on mortality associated with PM_{2.5} exposure. This estimate used data and equations prepared by the EPA for the Environmental Benefits Mapping and Analysis Program (BenMAP-CE),¹⁰ which is the EPA's recommended tool for benefits calculations. The estimated mortality associated maximum benefit was calculated to be \$27.8 million. This amount (\$27.8 million) is representative of benefits over a long period of time¹¹ because it is based on long-term mortality from continuous PM_{2.5} exposure. A copy of this analysis is the docket for this proposal.

The extension of 40 CFR 49.128 Rule for limiting particulate matter emissions from wood products industry sources to the Coeur D'Alene Reservation is not expected to result in new capital costs for the one existing facility that would be subject to the rule. This is because, based on available test data from the source in question, the emission controls that the facility is currently using to control hazardous air pollutants to comply with the NESHAP for Plywood and Composite Wood Products (40 CFR part 63, subpart DDDD) are also expected to control particulate matter emissions to below the levels required in 40 CFR 49.128.

With respect to orchard heating devices proposed to be regulated under 40 CFR 49.124 Rule for limiting visible emissions, the EPA conducted an analysis of the expected costs of complying with this rulemaking. This analysis indicates that annualized costs of a little over \$1.5 million (based on one-time capital costs of up to \$18.9 million amortized over 30 years) could be

¹⁰ <https://www.epa.gov/benmap>

¹¹ The time period of the benefit calculation is not explicitly defined since death from chronic PM_{2.5} exposure can occur years after the start of the exposure period. The EPA calculates benefits based on the Di et al. (2017) epidemiological study (<https://www.nejm.org/doi/full/10.1056/nejmoa1702747>), which focused on evaluating mortality and PM_{2.5} concentrations for a 12-year period.

expected across all Indian reservations in order for orchard heating devices (including smudge pots) to comply with the visible emissions limit. These anticipated capital costs assume that 10% of all orchard lands on Indian reservations in Idaho, Oregon, and Washington will be required to purchase new equipment (e.g., propane-powered fans or propane heaters) to comply with the visible emissions limit and maintain orchard heating capabilities. Note, however, that this assumption is based on limited data regarding the prevalence of smudge pots, open-pot heaters, and other orchard heating devices that burn diesel and other fuels with high visible emissions on Indian reservations in Idaho, Oregon, and Washington. The analysis also indicates that these up-front capital costs for replacement orchard heating devices will be recouped in time; the use of alternative equipment is expected to result in an annual operating cost savings of roughly \$10,000 per acre due to reductions in fuel and labor costs.¹² We specifically request public comment on the EPA's economic analysis with respect to orchard heating devices, along with available data regarding the extent to which existing orchard heating devices on Indian reservations in Idaho, Oregon, and Washington are expected to be able to comply with the proposed visible emissions limit in 40 CFR 49.124; the up-front capital costs of replacing non-complying orchard heating capacity; and any expected annual cost savings from replacing non-complying orchard heating capacity with alternatives. This data will be considered in making decisions about how to regulate orchard heating devices appropriately in the final rule.

Thus, the costs estimated for these revisions to the FARR are primarily the labor costs associated with recordkeeping and reporting under the regulations. Costs for both the FARR rules currently in effect at 2021 costs and the proposed revisions to the FARR were estimated in the EIA. Cost estimates for the revisions proposed in this rulemaking include costs on those Indian reservations for which the EPA has proposed additional new rules. The total annualized labor costs and non-labor costs were estimated to be \$496,252 for all rules other than 40 CFR 49.124 Rule for limiting visible emissions. Factoring in the estimated ongoing annual savings

¹² This annual per acre cost savings results in an estimated ongoing annual savings of \$55,283,273.

related to use of replacement orchard heating devices, the proposed revisions are estimated to result in an overall annual savings.¹³

The information relied on by the EPA for this analysis was assembled from a number of sources, including surveys of sources on the Indian reservations in Idaho, Oregon, and Washington, consultations with the sources and Tribal governments, and the EPA's experience with air quality issues in the Pacific Northwest.

III. Public Participation and Request for Comment

The proposed revisions include minor editorial changes throughout the FARR (subpart C) and FIP (subpart M) rules, in addition to substantive changes to certain provisions of the rules. As such, we are publishing with this proposal the full text of the rules as proposed to be revised, rather than only the portions of the text proposed to be revised in this action. A redline-strikeout comparison of the revised rules, as proposed, to the existing FARR and FIPs showing all proposed changes is included in the docket for this action. The EPA solicits comments on all aspects of the proposed revisions. Interested parties should submit comments online and be sure to identify the appropriate docket control number (EPA-R10-OAR-2020-0361) in your correspondence. Your comments must be received by **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]** to be considered in the final action taken by the EPA.

You may also comment on this proposal by attending the public hearing, if one is held, and providing oral comments. If the EPA determines that a hearing should be held, the virtual hearing will be held on November 17, 2022.

IV. Incorporation by Reference

In this document, the EPA is proposing to include in the final rule, regulatory text that includes incorporation by reference (IBR). In accordance with requirements of 1 CFR 51.5, the

¹³ Annual savings from the proposed revisions are estimated to be \$53,266,002.

EPA is proposing to IBR the following provisions as they exist on the date of final approval by the Office of the Federal Register:

- ASTM D388-19a, Standard Classification of Coals by Rank, IBR to be approved for § 49.123. This specification covers the classification of coals by rank, that is, according to their degree of metamorphism, or progressive alteration, in the natural series from lignite to anthracite;
- ASTM D396-21, Standard Specification for Fuel Oils, IBR to be approved for § 49.123. This specification covers grades of fuel oil intended for use in various types of fuel-oil-burning equipment under various climatic and operating conditions; ASTM D240-19, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter, IBR to be approved for § 49.123. This test method covers the determination of the heat of combustion of liquid hydrocarbon fuels ranging in volatility from that of light distillates to that of residual fuels;
- ASTM D1826-94(Reapproved 2017), Standard Test Method for Calorific (Heating) Value of Gases in Natural Gas Range by Continuous Recording Calorimeter, IBR to be approved for § 49.123. This test method covers the determination with the continuous recording calorimeter of the total calorific (heating) value of fuel gas produced or sold in the natural gas range from 900 to 1200 British thermal unit/standard cubic foot;;
- ASTM D5865/D5865M-19, Standard Test Method for Gross Calorific Value of Coal and Coke, IBR to be approved for § 49.123. This test method pertains to the determination of the gross calorific value of coal and coke by either an isoperibol or adiabatic combustion calorimeter;;
- ASTM D2880-20, Standard Specification for Gas Turbine Fuel Oils, IBR to be approved for § 49.130. This specification covers the selection of fuels for gas turbines, excepting gas turbines used in aircraft, for the guidance of interested parties such as turbine manufacturers and the suppliers and purchasers of fuel oils;

- ASTM D4294-21, Standard Test Method for Sulfur in Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectroscopy, IBR to be approved for § 49.130.. This test method covers the determination of total sulfur in petroleum and petroleum products that are single-phase and either liquid at ambient conditions, liquefiable with moderate heat, or soluble in hydrocarbon solvents;
- ASTM D6021-22, Standard Test Method for Measurement of Total Hydrogen Sulfide in Residual Fuels by Multiple Headspace Extraction and Sulfur Specific Detection, IBR to be approved for § 49.130. This test method covers a method suitable for measuring the total amount of hydrogen sulfide (H₂S) in heavy distillates, heavy distillate/residual fuel blends, or residual fuels;
- ASTM D4239-18e1, Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke Using High Temperature Tube Furnace Combustion Methods, IBR to be approved for § 49.130. This test method covers the determination of sulfur in samples of coal or coke by high-temperature tube furnace combustion;
- ASTM E775-15(Reapproved 2021), Standard Test Methods for Total Sulfur in the Analysis Sample of Refuse-Derived Fuel, IBR to be approved for § 49.130. These test methods present two alternative procedures for the determination of total sulfur in prepared analysis samples of solid refuse-derived fuel. Sulfur is included in the ultimate analysis of refuse-derived fuel;
- ASTM D1072-06(Reapproved 2017), Standard Test Method for Total Sulfur in Fuel Gases by Combustion and Barium Chloride Titration, IBR to be approved for § 49.130. This test method is for the determination of total sulfur in combustible fuel gases and is applicable to natural gases, manufactured gases, mixed gases, and other miscellaneous gaseous fuels;
- ASTM D3246-15, Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry, IBR to be approved for § 49.130. This test method covers

determination of sulfur in the range from 1.5 to 100 milligram per kilogram (parts per million by mass) by weight in hydrocarbon products that are gaseous at normal room temperature and pressure;

- ASTM D4084-07(Reapproved 2017) Standard Test Method for Analysis of Hydrogen Sulfide in Gaseous Fuels (Lead Acetate Reaction Rate Method), IBR to be approved for § 49.130. This test method covers the determination of H_2S in gaseous fuels. It is applicable to the measurement of H_2S in natural gas, liquefied petroleum gas, substitute natural gas, landfill gas, sewage treatment off gasses, recycle gas, flare gasses, and mixtures of fuel gases;
- ASTM D5504-20, Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence, IBR to be approved for § 49.130. This test method is primarily for the determination of speciated volatile sulfur-containing compounds in high methane content gaseous fuels such as natural gas;
- ASTM D4468-85(Reapproved 2015), Standard Test Method for Total Sulfur in Gaseous Fuels by Hydrogenolysis and Rateometric Colorimetry, IBR to be approved for § 49.130. This test method covers the determination of sulfur gaseous fuels in the range from 0.001 to 20 parts per million by volume (ppm/v);
- ASTM D2622-21, Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-ray Fluorescence Spectrometry, IBR to be approved for § 49.130. This test method covers the determination of total sulfur in petroleum and petroleum products that are single-phase and either liquid at ambient conditions, liquefiable with moderate heat, or soluble in hydrocarbon solvents. These materials can include diesel fuel, jet fuel, kerosene, other distillate oil, naphtha, residual oil, lubricating base oil, hydraulic oil, crude oil, unleaded gasoline, gasoline-ethanol blends, and biodiesel; and

- ASTM D6228-19, Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Flame Photometric Detection, IBR to be approved for § 49.130. This test method covers the determination of individual volatile sulfur-containing compounds in gaseous fuels by gas chromatography with a flame photometric detector or a pulsed flame photometric detector.

These ASTM standards were developed and adopted by ASTM. This material is available for inspection by appointment at the EPA Region 10, Air and Radiation Division, 1200 Sixth Avenue, Seattle, Washington 98101 by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, and is available from the sources indicated below. The ASTM standards may also be obtained from www.astm.org or from the ASTM at 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. OMB determined this action is significant based on a finding of novel policy issues, specifically that this action impacts Indian Tribes. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an economic analysis of the potential costs and benefits associated with this action. This analysis, “Economic Impact Analysis for the Revised Federal Implementation Plans Under the Clean Air Act for Indian Reservations in Idaho, Oregon, and Washington” is available in the docket.

B. Paperwork Reduction Act (PRA)

OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0558. Information collection activities in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR # 2730.01.

The record-keeping and reporting burden for this collection of information is described in the following paragraphs. As discussed in section C of this preamble, “burden” refers means to the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency.

In 2005, the EPA promulgated Federal Implementation Plans (FIPs) under the Clean Air Act (CAA) for Indian reservations located in Idaho, Oregon and Washington. The FIPs, also referred to as Federal Air Rules for Reservations (FARR), include basic air quality regulations to protect health and welfare on Indian reservations located in the Northwest. These rules are implemented by EPA Region 10 and delegated to Tribes. EPA Region 10 is proposing revisions to the FARR, including clarifying aspects of the initial rules; removing an exemption to the limiting visible emissions rule for smudge pots and adding new rules for residential solid fuel heating devices and woodstove curtailment; splitting the rule for general open burning permits into a large open burn and two small open burn permit options; removing provisions that have been superseded by provisions of the Tribal New Source Review (NSR) rule; and moving to online registration of air pollution sources and emissions reporting. In addition, EPA Region 10 is promulgating three new FIPs implementing the FARR on the Snoqualmie Indian Reservation, the Cowlitz Indian Reservation, and the lands held in trust for the Samish Indian Nation. These revisions also clarify that the FARR applies to lands held in trust for a Tribe that has not been formally designated as a reservation.

The Office of Management and Budget (OMB) approved an Information Collection Request (ICR) entitled “Federal Implementation Plans Under the Clean Air Act for Indian

Reservations in Idaho, Oregon and Washington” (OMB Control Number 2060-0558), on November 16, 2004 for the FARR as originally promulgated in 2005. Renewals of the ICR were approved by OMB on May 23, 2008; August 3, 2011; March 16, 2015; and August 31, 2018, with the latest renewal (EPA ICR # 2020.09) submitted to OMB for review and approval and published in the Federal Register on 8/13/2021 (86 FR 44708). This new ICR addresses the proposed revisions to the FARR listed above and provides burden estimates for respondents to comply with the various FIP provisions required by subpart M of this part Implementation Plans for Tribes - Region 10. The rulemaking effort will utilize a new OMB control number and EPA ICR number. Any approved information collection activities associated with the final rule will be reintegrated with the base collection (under control number 2060-0558) at a later date.

Respondents/affected entities: Entities potentially affected by this action include owners and operators of emission sources in all industry groups and tribal, Federal, and local governments, landowners who conduct open burning and owners of residential wood burning devices, located in the identified Indian reservations. Categories of entities potentially affected by this proposed information collection are summarized in Table 1 in the ICR.

Respondent’s obligation to respond: Respondent’s obligation to respond is mandatory. See §§ 49.122, 49.126, 49.130 through 134, 49.138 through 49.142.

Estimated number of respondents: 2,731

Frequency of response: Annual or Occasional

Total estimated burden: 5354.5 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$424,300 (per year), includes no annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. The EPA will respond to any ICR-related comments in the final rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review - Open for Public Comments" or by using the search function. OMB must receive comments no later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. Under the RFA, "small entity" includes small businesses, small governments, and small organizations, as defined in 5 U.S.C. 601. The small entities subject to the requirements of this action are primarily small businesses, although there may be small organizations and small governmental jurisdictions that are impacted as well. Among individually identified entities expected to be impacted by these rules, 108 out of 140 (77%)¹⁴ were classified as small entities, all of which are small businesses. There are an array of different types of businesses that would be impacted. Industrial categories subject to the FARR include gasoline stations, forest products, cement, asphalt paving, automotive repair, lodging, and other sectors. None of the identified facilities expected to incur costs under these rules are believed to be owned by small governments. In addition to the identified entities, there are a number of general contractors, fire protection services, farmers, foresters, and orchardists that are expected to incur costs each year to apply for burn permits or comply with other recordkeeping and reporting requirements. We have estimated that an average of about 2,010 entities would incur costs for preparing burn permits or other requirements each year. These entities are not

¹⁴ This represents the number of businesses that have registered under the FARR.

specifically identified so we used a conservative assumption that they are all small. They are expected to be comprised primarily of small businesses, but small governmental jurisdictions may incur costs for their fire protection services to obtain annual open burning permits to conduct trainings. Small non-profits may also be impacted. The Agency has determined that the identified small entities may experience an impact averaging about 0.1 percent of revenues, with no entities expected to incur costs greater than 1 percent of their annual revenues. Similarly, among unidentified entities that are expected to experience positive regulatory costs, the estimated costs are so low relative to typical revenues in the impacted sectors that no entities are expected to experience cost greater than 1 percent of annual revenues. Details of this analysis are presented in the EIA included in the docket. Although this proposed rulemaking will not have a significant economic impact on a substantial number of small entities, the EPA has included a number of exemptions in the rules where appropriate to reduce impacts of this rulemaking on small entities. In addition, in developing this proposal, the EPA coordinated and consulted with Tribal governments regarding the potential impacts of these rules (see Section IV.F. of this preamble). In order to better understand the implications of these rules for small entities, as part of the coordination and consultation with Tribal representatives, the EPA also explored the possible effects for small businesses operating on Tribal lands. We continue to seek information regarding the potential impacts of the proposed rulemaking on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The EPA has determined that this rulemaking does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. With regard to State and local governments, there is no expenditure because these rules only apply on Indian reservations. With regard to

Tribal governments the proposed revisions will not have an economic impact on Tribal governments because the implementation and enforcement responsibility for the proposed revisions rests with the EPA unless a Tribe seeks delegation to implement or otherwise seeks to assist the EPA in one or more aspects of the FARR on its reservation. Thus, this rule are not subject to the requirements of sections 202 and 205 of UMRA.

As explained in the discussion of Executive Order 13175 in section F of this preamble below, we notified all potentially affected Tribal governments of the requirements in these proposed rules. Further, although there are no significant Federal intergovernmental mandates, we provided officials of all potentially affected Tribal governments an opportunity for meaningful and timely input in the development of the regulatory proposal. Finally, through consultation meetings and other forums, we will continue to keep Tribal governments involved by providing them with opportunities for learning about and receiving advice on compliance with the regulatory requirements.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The proposed revisions would significantly affect specific Indian reservations in Idaho, Oregon, and Washington by imposing necessary or appropriate air quality regulations and creating an improved level of air quality protection on the affected Indian reservations. The air quality revisions proposed here are applicable broadly to all sources within the identified Indian reservations and are not uniquely applicable to Tribal governments. Tribal governments may incur some compliance costs in meeting those requirements that apply to sources they own or

operate; however, the economic impacts analysis indicates that those costs would not be substantial. Finally, although Tribal governments are encouraged to partner with the EPA on the implementation of these regulations, they are not required to do so. In addition, the EPA will seek to provide funding to Tribes that apply for delegation of the EPA's authority to administer specific rules to support their activities. Because these proposed revisions will neither impose substantial direct compliance costs on Tribal governments, nor preempt Tribal law, the requirements of sections 5(b) and 5(c) of the Executive Order do not apply to the proposed revisions.

The EPA consulted with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this regulation to permit them to have meaningful and timely input into its development. A summary of that consultation is provided in the document, "Coordination and Consultation Record," included in the docket for this notice. The proposed revisions are based on the EPA's and Tribes' experience in implementing the FARR since 2005, including instances where the FARR was not being interpreted as the EPA had intended, as well as changes in related air quality regulations and changes in air quality in some affected areas. Early on in the process, in 2010, we offered all affected Tribes the opportunity to consult on proposed revisions to the FARR, and conducted formal consultations with three Tribes in response to that offer. We also provided Tribes the opportunity early on to participate in conference calls to learn more about potential rule revision and worked collaboratively with tribal environmental staff as we developed draft revisions.

The EPA provided drafts of the proposed FARR revisions to the leaders and environmental staff of the affected Tribes in 2016 and 2020. Several Tribes requested formal consultation in response. The EPA also conducted a webinar in 2020 to provide an overview of the latest draft revisions that 10 Tribes attended, and the EPA discussed the draft revisions with Tribal environmental staff at various points in the process. The overall response to the proposed revisions from Tribal leaders and environmental staff was generally favorable, and the EPA

received valuable suggestions for improvements to the rule itself, as well as outreach and implementation for once the revisions are finalized.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action generally increases the level of environmental protection for affected populations (persons living on Indian reservations). The proposed revisions would provide regulatory certainty and necessary or appropriate regulation on Indian reservations, and reduce emissions from sources complying with these regulations. Consequently, the regulations are expected to result in health benefits to persons living on Indian reservations.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not a “significant energy action” because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. The EPA proposes to continue using the ASTM Methods and generally accepted test methods previously promulgated by the EPA, as updated since 2005. Because these methods were used under the FARR rules as promulgated in 2005 and are still widely used by State and local agencies for determining compliance with similar rules, the EPA continues to believe these technical standards are the most appropriate and will not require any alternative technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). Section II.C. of this preamble provides additional information regarding Environmental Justice. This action generally increases the level of environmental protection for affected populations (persons living on Indian reservations). The proposed revisions would provide necessary or appropriate regulation on Indian reservations, and reduce emissions from sources complying with these regulations. Consequently, the regulations are expected to result in health benefits to persons living on Indian reservations, many of whom live in low-income and communities of color.

List of Subjects in 40 CFR Part 49

Environmental protection, Air pollution control, Administrative Act and Procedure, Incorporation by reference, Indians, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 15, 2022.

Casey Sixkiller,
Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 49 is proposed to be amended as follows:

PART 49—INDIAN COUNTRY: AIR QUALITY PLANNING AND MANAGEMENT

1. The authority citation for part 49 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—General Federal implementation Plan Provisions

2. Revise the undesignated heading immediately following reserved §§ 49.106 through 49.120 and §§ 49.121 through 49.139 to read as follows:

Sec.

* * * * *

General Rules for Application to Indian Reservations in Idaho, Oregon, and Washington

49.121 Introduction.

49.122 Partial delegation of administrative authority to a Tribe.

49.123 General provisions.

49.124 Rule for limiting visible emissions.

49.125 Rule for limiting the emissions of particulate matter.

49.126 Rule for limiting fugitive particulate matter emissions.

49.127 Rule for woodwaste burners.

49.128 Rule for limiting particulate matter emissions from wood products industry sources.

49.129 Rule for limiting emissions of sulfur dioxide.

49.130 Rule for limiting sulfur in fuels.

49.131 General rule for open burning.

49.132 Rule for large open burning permits.

49.133 Rule for agricultural burning permits.

49.134 Rule for forestry and silvicultural burning permits.

49.135 Rule for emissions detrimental to public health or welfare.

49.136 [Reserved]

49.137 Rule for air pollution episodes.

49.138 Rule for the registration of air pollution sources and the reporting of emissions.

49.139 Rule for non-Title V operating permits.

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General Rules for Application to Indian Reservations in Idaho, Oregon, and Washington

§ 49.121 Introduction.

(a) *What is the purpose of §§ 49.121 through 49.143?* These sections establish emission limitations and other requirements for air pollution sources located within Indian reservations in Idaho, Oregon, and Washington that are appropriate in order to ensure a basic level of air

pollution control and to protect public health and welfare.

(b) *How were these sections developed?* These sections were developed in consultation with the Indian Tribes located in Idaho, Oregon, and Washington and with input from the public and State and local governments in EPA Region 10. These sections take into consideration the current air quality situations within Indian reservations, the known sources of air pollution, the needs and concerns of the Indian Tribes in that portion of EPA Region 10, and the air quality rules in adjacent jurisdictions.

(c) *When are these sections applicable to sources on a particular Indian reservation?* These sections apply to air pollution sources on a particular Indian reservation when EPA has specifically promulgated one or more rules for that reservation in subpart M of this part. Rules will be promulgated through notice and comment rulemaking and will be specifically identified in the implementation plan for that reservation in subpart M of this part. Once EPA has promulgated one or more rules for an Indian reservation, such rules will apply without further action to any subsequently established reservation lands of the specified Indian Tribe or Tribes.

§ 49.122 Partial delegation of administrative authority to a Tribe.

(a) *What is the purpose of this section?* The purpose of this section is to establish the process by which the Regional Administrator may delegate to an Indian Tribe partial authority to administer one or more of the Federal requirements in effect in subpart M of this part for a particular Indian reservation. The Federal requirements administered by the delegated Tribe will be subject to enforcement by EPA under Federal law. This section provides for administrative delegation and does not affect the eligibility criteria under § 49.6 for treatment in the same manner as a State.

(b) *How does a Tribe request partial delegation of administrative authority?* In order to be delegated authority to administer one or more of the Federal requirements that are in effect in subpart M of this part for a particular Indian reservation, the Tribe must submit a request to the Regional Administrator that:

(1) Identifies the specific provisions for which delegation is requested.

(2) Identifies the Indian reservation (or portion thereof) for which delegation is requested.

(3) Includes a statement by the applicant's legal counsel (or equivalent official) that includes the following information:

(i) A statement that the applicant is an Indian Tribe recognized by the Secretary of the Interior;

(ii) A descriptive statement demonstrating that the applicant is currently carrying out substantial governmental duties and powers over a defined area and that it meets the requirements of § 49.7(a)(2); and

(iii) A description of the laws of the Indian Tribe that provide adequate authority to carry out the aspects of the provisions for which delegation is requested.

(4) Demonstrates that the Tribe has, or will have, the technical capability and adequate resources to carry out the aspects of the provisions for which delegation is requested.

(c) *How is the partial delegation of administrative authority accomplished?* (1) A partial delegation of administrative authority agreement will set forth the terms and conditions of the delegation, will specify the provisions that the Tribe will be authorized to administer on behalf of EPA, will, if applicable, identify the portion(s) of the Indian reservation covered by the delegation, and will be entered into by the Regional Administrator and the Tribe. The Agreement will become effective upon the date that both the Regional Administrator and the Tribe have signed the agreement. Once the delegation becomes effective, the Tribe will have the authority under the Clean Air Act, to the extent specified in the agreement, for administering one or more of the Federal requirements that are in effect in subpart M of this part for the particular Indian reservation (or portion thereof) and will act on behalf of the Regional Administrator for purposes of administering such requirements.

(2) A partial delegation of administrative authority agreement may be modified, amended, or revoked, in part or in whole, by the Regional Administrator after consultation with the Tribe.

Any substantive modifications or amendments will be subject to the procedures in paragraph (d) of this section.

(d) *How will any partial delegation of administrative authority be publicized?* (1) Prior to making any final decision to delegate partial administrative authority to a Tribe under this section, EPA will consult with appropriate governmental entities outside of the specified reservation and city and county governments located within the boundaries of the specified reservation.

(2) The Regional Administrator will publish a notice in the *Federal Register* informing the public of any Partial Delegation of Administrative Authority Agreement for a particular Indian reservation and will note such delegation in the applicable implementation plan for the Indian reservation in subpart M of this part. The Regional Administrator will also publish an announcement of the partial delegation agreement in local newspapers.

§ 49.123 General provisions.

(a) *Definitions.* The following definitions apply for the purposes of §§ 49.121 through 49.143. Terms not defined in this paragraph (a) have the meaning given to them in the Clean Air Act.

Actual emissions means the actual rate of emissions, in tons per year, of an air pollutant emitted from an air pollution source. For an existing air pollution source, the actual emissions are the actual rate of emissions for the preceding calendar year and must be calculated using the actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. For a new air pollution source that did not operate during the preceding calendar year, the actual emissions are the estimated actual rate of emissions for the current calendar year.

Administrator means the Administrator of the United States Environmental Protection Agency (EPA) or an authorized representative of the Administrator.

Agricultural activities means the usual and customary activities of cultivating the soil, growing or harvesting crops, and raising livestock for use and consumption. Agricultural

activities do not include manufacturing, bulk storage, preparing or handling for resale, or the formulation of any agricultural chemical. Examples of activities that are not agricultural activities include hop drying in kilns and distillation of mint oil.

Agricultural burn or agricultural burning means the open burning of vegetative debris from an agricultural activity that is necessary for disease or pest control, or for crop propagation and/or crop rotation.

Air pollutant means any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and by-product material) substance or matter that is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term air pollutant is used.

Air pollution source (or source) means any building, structure, facility, installation, activity, or equipment, or combination of these, that emits, or may emit, an air pollutant.

Allowable emissions mean the emission rate of an air pollution source calculated using the maximum rated capacity of the source (unless the source is subject to Federally-enforceable limits that restrict the operating rate, hours of operation, or both) and the most stringent of the following:

- (i) The applicable standards in 40 CFR parts 60, 61, 62, and 63;
- (ii) The applicable implementation plan emission limitations, including those with a future compliance date; or
- (iii) The emissions rates specified in Federally-enforceable permit conditions.

Ambient air means that portion of the atmosphere, external to buildings, to which the general public has access.

British thermal unit (Btu) means the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

Clean Air Act means 42 U.S.C. 7401 *et seq.*

Coal means all fuels classified as anthracite, bituminous, sub-bituminous, or lignite in ASTM D388.

Combustion source means any air pollution source that combusts a solid fuel, liquid fuel, or gaseous fuel, or an incinerator.

Continuous emissions monitoring system (CEMS) means the total equipment used to sample, condition (if applicable), analyze, and provide a permanent continuous record of emissions.

Continuous opacity monitoring system (COMS) means the total equipment used to sample, analyze, and provide a permanent continuous record of opacity.

Cooking fire means any open burn in a fire pit or outdoor appliance for the purpose of cooking food. A cooking fire may only burn firewood, charcoal briquettes, wood pellets, wood chips, or other fuels suitable for cooking food.

Distillate fuel oil means any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils in ASTM D396.

Emission means a direct or indirect release into the atmosphere of any air pollutant or air pollutants released into the atmosphere.

Emission factor means an estimate of the amount of an air pollutant that is released into the atmosphere, as the result of an activity, in terms of mass of emissions per unit of activity (for example, the pounds of sulfur dioxide emitted per gallon of fuel burned).

Emission unit means any part of an air pollution source that emits, or may emit, air pollutants into the atmosphere.

Federally enforceable means all limitations and conditions that are enforceable by the Administrator.

Forestry or silvicultural activities means those activities associated with regeneration, growing, and harvesting of trees and timber including, but not limited to, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road

construction and road maintenance, fertilization, logging operations, and forest management techniques employed to enhance the growth of stands of trees or timber.

Forestry or silvicultural burn or forestry or silvicultural burning means the open burning of vegetative debris from a forestry or silvicultural activity that is necessary for disease or pest control, reduction of fire hazard, reforestation, or ecosystem management. This includes *prescribed fire* as defined in 40 CFR 50.1(m).

Fuel means any solid, liquid, or gaseous material that is combusted in order to produce heat or energy.

Fuel oil means a liquid fuel derived from crude oil or petroleum, including distillate oil, residual oil, and used oil.

Fugitive dust means a particulate matter emission made airborne by forces of wind, mechanical disturbance of surfaces, or both. Unpaved roads and construction sites are examples of sources of fugitive dust.

Fugitive particulate matter means particulate matter emissions that do not pass through a stack, chimney, vent, or other functionally equivalent opening. Fugitive particulate matter includes fugitive dust.

Gaseous fuel means any fuel that exists in a gaseous state at standard conditions including, but not limited to, natural gas, propane, fuel gas, process gas, and landfill gas.

Grate cleaning means removing ash and other non-combustibles from fireboxes.

Hardboard means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

Heat input means the total gross calorific value [where gross calorific value is measured by ASTM D240, ASTM D1826, or ASTM D5865/D5865M] of all fuels burned.

Hog fuel or hogged fuel means wood chips or shavings, residue from sawmills, and other wood processing residue.

Implementation plan means a Tribal implementation plan approved by EPA pursuant to this

part or 40 CFR part 51, or a Federal implementation plan promulgated by EPA in this part or in 40 CFR part 52 that applies in Indian country, or a combination of Tribal and Federal implementation plans.

Incinerator means any device, including a flare, designed to reduce the volume of solid, liquid, or gaseous waste by combustion. This includes air curtain incinerators but does not include open burning.

Indian country means:

(i) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

(ii) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State.

(iii) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Indian reservation, which is included in the definition of Indian country and used elsewhere in this rule, means all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation. Under this definition, Indian reservations include lands held in trust by the United States government for the benefit of an Indian Tribe even if the trust lands have not been formally designated as a reservation.

Intermediate change to monitoring means an “intermediate change to monitoring” as defined in 40 CFR 63.90(a).

Large open burn or large open burning means the open burning of a single pile of materials greater than 10 feet in diameter or more than 60 feet of ditch bank or fence line vegetation.

Major change to monitoring means a “major change to monitoring” as defined in 40 CFR

63.90(a).

Marine vessel means a waterborne craft, ship, or barge.

Minor change to monitoring means a “minor change to monitoring” as defined in 40 CFR

63.90(a).

Minor change to recordkeeping/reporting means a “minor change to recordkeeping/reporting” as defined in 40 CFR 63.90(a), except it does not include “Changes related to compliance extensions granted pursuant to § 63.6(i)” of this chapter.

Minor change to test method means a “minor change to test method” as defined in 40 CFR 63.90(a).

Mobile sources means locomotives, aircraft, motor vehicles, nonroad vehicles, nonroad engines, and marine vessels.

Motor vehicle means any self-propelled vehicle designed for transporting people or property on a street or highway.

New air pollution source means, for the purposes of the “Rule for registration of air pollution sources and reporting of emissions” in § 49.138, an air pollution source that begins actual construction after the dates specified in § 49.138(e)(1)(ii), (iv) or (vi), as applicable.

Noncombustibles means materials that are not flammable, capable of catching fire, or burning.

Nonroad engine means a “nonroad engine” as defined in 40 CFR 1068.30.

Nonroad vehicle means a vehicle that is powered by a nonroad engine and that is not a motor vehicle or a vehicle used solely for competition.

Non-Title V operating permit means a permit issued by the Regional Administrator pursuant to § 49.139 Rule for non-Title V operating permits.

Oil-fired boiler means a furnace or boiler used for combusting fuel oil for the primary purpose of producing steam or hot water by heat transfer.

Opacity means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background. For continuous opacity monitoring systems, opacity means

the fraction of incident light that is attenuated by an optical medium.

Open burn or open burning means the burning of a material that results in the products of combustion being emitted directly into the atmosphere without passing through a stack. Open burning includes burning in burn barrels.

Orchard heating device or orchard heater means a fuel burning device capable of being used for frost-prevention or protection in orchards, vineyards, field crops or truck crops. Smudge pots and open-pot heaters are types of orchard heating devices.

Owner or operator means any person who owns, leases, operates, controls, or supervises an air pollution source.

Part 71 source means any source subject to the permitting requirements of 40 CFR part 71, as provided in 40 CFR 71.3(a) and (b).

Particleboard means a matformed flat panel consisting of wood particles bonded together with synthetic resin or other suitable binder.

Particulate matter means any airborne finely divided solid or liquid material, other than uncombined water. Particulate matter includes, but is not limited to, $PM_{2.5}$ and PM_{10} .

Permit to construct or construction permit means a permit issued by the Regional Administrator pursuant to this part or 40 CFR part 52, or a permit issued by a Tribe pursuant to a program approved by the Administrator under 40 CFR part 51, subpart I, authorizing the construction or modification of a stationary source.

Permit to operate or operating permit means a permit issued by the Regional Administrator pursuant to §§ 49.139 and 49.158, 40 CFR part 71, or by a Tribe pursuant to a program approved by the Administrator under 40 CFR part 51 or 40 CFR part 70, authorizing the operation of a stationary source.

Plywood means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.

$PM_{2.5}$ means particulate matter with an aerodynamic diameter less than or equal to 2.5

micrometers.

PM₁₀ means particulate matter with an aerodynamic diameter less than or equal to 10 micrometers.

Potential to emit means the maximum capacity of an air pollution source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the air pollution source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is Federally enforceable.

Press/Cooling vent means any opening through which particulate and gaseous emissions from plywood, particleboard, or hardboard manufacturing are exhausted, either by natural draft or powered fan, from the building housing the process. Such openings are generally located immediately above the board press, board unloader, or board cooling area.

Process source means an air pollution source using a procedure or combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

Rated capacity means the maximum sustainable capacity of the equipment.

Recreational fire means a campfire or a bonfire burning materials authorized under § 49.131(d)(1)(i) and (iii) for pleasure or celebratory purposes. Cooking fires and fires used for debris disposal purposes are not considered recreational fires.

Reference method means any method of sampling and analyzing for an air pollutant as specified in the applicable section.

Regional Administrator means the Regional Administrator of EPA Region 10 or an authorized representative of the Regional Administrator.

Residential central heater means a residential wood burning device that is a “central heater” as defined in 40 CFR 60.5473.

Residential forced-air furnace means a residential wood burning device that is a “residential forced-air furnace” as defined in 40 CFR 60.5473.

Residential hydronic heater means a residential wood burning device that is a “residential hydronic heater” as defined in 40 CFR 60.5473.

Residential wood burning device means any wood burning device that supplies heat to a single-family residence (including a boarding house or a residence with a “mother in law” unit) or any wood burning device installed in an individual unit of a multiple unit structure such as a condominium, apartment, duplex, multiplex, hotel, motel, or resort. This includes, but is not limited to, wood stoves, fireplaces, fireplace inserts, residential wood heaters, residential hydronic heaters, residential forced-air furnaces, and residential central heaters.

Residential wood heater means a residential wood burning device that is a “wood heater” as defined in 40 CFR 60.531 or 40 CFR 60.5473.

Residual fuel oil means any oil meeting the specifications of ASTM Grade 4, Grade 5, or Grade 6 fuel oils in ASTM D396.

Small open burn or small open burning means the open burning of a single pile of materials that is 10 feet or less in diameter or 60 feet or less of ditch bank or fence line vegetation.

Solid fuel means wood, refuse, refuse-derived fuel, tires, tire-derived fuel, and other solid combustible material (other than coal), including any combination thereof.

Solid fuel-fired boiler means a furnace or boiler used for combusting solid fuel for the primary purpose of producing steam or hot water by heat transfer.

Soot blowing means using steam or compressed air to remove carbon from a furnace or from a boiler’s heat transfer surfaces.

Source means the same as *air pollution source*.

Stack means any point in a source that conducts air pollutants to the atmosphere, including, but not limited to, a chimney, flue, conduit, pipe, vent, or duct, but not including a flare.

Standard conditions means a temperature of 293 degrees Kelvin (68 degrees Fahrenheit, 20

degrees Celsius) and a pressure of 101.3 kilopascals (29.92 inches of mercury).

Start-up means the setting into operation of a piece of equipment.

Stationary source means any building, structure, facility, or installation that emits, or may emit, any air pollutant.

Tempering oven means any facility used to bake hardboard following an oil treatment process.

Uncombined water means droplets of water that have not combined with hygroscopic particles or do not contain dissolved solids.

Untreated wood means wood of any species that has not been chemically impregnated, painted, coated, or similarly modified to prevent weathering and deterioration.

Used oil means petroleum products that have been recovered from another application.

Veneer means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

Veneer dryer means equipment in which veneer is dried.

Visible emissions means air pollutants in sufficient amount to be observable to the human eye.

Wood means wood, wood residue, wood waste, hog fuel, bark, or any derivative or residue thereof, in any form, including but not limited to sawdust, sander dust, wood chips, scraps, slabs, millings, shavings, and processed pellets made from wood or other forest residues.

Wood-fired boiler means a furnace or boiler used for combusting wood for the primary purpose of producing steam or hot water by heat transfer.

Wood-fired veneer dryer means a veneer dryer that is directly heated by the products of combustion of wood in addition to, or exclusive of, steam or natural gas or propane combustion.

Woodwaste burner means a conical burner, silo burner, olivine burner, truncated cone burner, or other such woodwaste-burning device used by the wood products industry for the disposal of wood wastes.

(b) *Requirement for testing.* The Regional Administrator may require, in a permit to construct or a permit to operate, that a person demonstrate compliance with any applicable emission

limitation or standard in subpart M of this part by performing a source test and submitting the test results to the Regional Administrator. A person may also be required by the Regional Administrator, in a permit to construct or permit to operate, to install and operate a COMS or a CEMS to demonstrate compliance. Nothing in subpart M of this part limits the authority of the Regional Administrator to require, in an information request pursuant to section 114 of the Clean Air Act, a person to demonstrate compliance by performing source testing, even where the source does not have a permit to construct or a permit to operate.

(c) *Requirement for monitoring, recordkeeping, and reporting.* Nothing in subpart M of this part precludes the Regional Administrator from requiring monitoring, recordkeeping, and reporting, including monitoring, recordkeeping, and reporting in addition to that already required by an applicable requirement, in a permit to construct or permit to operate in order to ensure compliance.

(d) *Alternatives to required testing, monitoring, recordkeeping and reporting.* (1) Performance tests shall be conducted, and data shall be reduced in accordance with the test methods and procedures set forth in each relevant standard, and, if required, in applicable appendices of 40 CFR parts 51, 60, 61, and 63 unless the Regional Administrator:

(i) Specifies or approves, in specific cases, the use of a test method with minor changes in methodology. Such changes may be approved in conjunction with approval of the site-specific test plan; or

(ii) Approves shorter sampling times or smaller sample volumes when necessitated by process variables or other factors; or

(iii) Waives the requirement for performance tests because the owner or operator of an affected source has demonstrated by other means to the Regional Administrator's satisfaction that the affected source is in compliance with the relevant standard.

(2) Monitoring shall be conducted as set forth in the relevant standard(s) unless the Regional Administrator:

(i) Specifies or approves the use of minor changes in methodology for the specified monitoring requirements and procedures; or

(ii) Approves the use of an intermediate or major change or alternative to any monitoring requirements or procedures.

(3) Recordkeeping or reporting shall be conducted as set forth in the relevant standard(s) unless the Regional Administrator:

(i) Specifies or approves the use of minor changes to recordkeeping/reporting for the specified requirements and procedures; or

(ii) A waiver of a recordkeeping or reporting requirement has been granted by the Regional Administrator under this paragraph:

(A) Recordkeeping or reporting requirements may be waived upon written application to the Regional Administrator if, in the Regional Administrator's judgment, the affected source is achieving the relevant standard(s). The application shall include whatever information the owner or operator considers useful to convince the Regional Administrator that a waiver of recordkeeping or reporting is warranted.

(B) A waiver of any recordkeeping or reporting requirement granted under this paragraph may be conditioned on other recordkeeping or reporting requirements deemed necessary by the Regional Administrator.

(C) Approval of any waiver granted under this section shall not abrogate the Regional Administrator's authority under the Clean Air Act or in any way prohibit the Regional Administrator from later canceling the waiver. The cancellation will be made only after notice is given to the owner or operator of the affected source.

(e) *Credible evidence.* For the purposes of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any requirement, nothing in subpart M of this part precludes the use, including the exclusive use, of any credible evidence or information relevant to whether a source would have been in compliance with applicable

requirements if the appropriate performance or compliance test had been performed.

(f) *Performance test.* Unless otherwise specified in the applicable standard or test method: (1) Each performance test shall consist of three valid test runs using the applicable test method and each run shall be conducted for the time and under the conditions specified in the applicable standard or test method.

(2) The arithmetic mean of the results of the three valid runs shall be compared to the applicable standard for purposes of determining compliance with the applicable standard using the applicable test method.

(3) In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the Regional Administrator's written approval, be determined using the arithmetic mean of the results of the two other runs.

(g) *Incorporation by reference.* The material listed in this paragraph (g) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the EPA and at the National Archives and Records Administration (NARA). Contact EPA at: EPA Region 10, Air and Radiation Division, 1200 Sixth Avenue, Seattle, Washington 98101; phone: 206-553-1200; website: www.epa.gov/aboutepa/epa-region-10-pacific-northwest. For information on the availability of this material at NARA, email: fr.inspection@nara.gov; website: www.archives.gov/federal-register/cfr/ibr-locations.html. The material may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959; telephone: (610) 832-9500; email: service@astm.org; website: www.astm.org.

(1) ASTM D388-19a, Standard Classification of Coals by Rank.

(2) ASTM D396-21, Standard Specification for Fuel Oils.

(3) ASTM D240-19, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon

Fuels by Bomb Calorimeter.

(4) ASTM D1826-94(Reapproved 2017), Standard Test Method for Calorific (Heating) Value of Gases in Natural Gas Range by Continuous Recording Calorimeter.

(5) ASTM D5865/D5865M-19, Standard Test Method for Gross Calorific Value of Coal and Coke.

§ 49.124 Rule for limiting visible emissions.

(a) *What is the purpose of this section?* This section limits the visible emissions of air pollutants from certain air pollution sources operating within an Indian reservation to control emissions of particulate matter to the atmosphere and ground-level concentrations of PM_{2.5} and PM₁₀, to detect the violation of other requirements in subpart M of this part, and to indicate whether a source is continuously maintained and properly operated.

(b) *Who is affected by this section?* This section applies to any person who owns or operates an air pollution source that emits, or could emit, particulate matter or other visible air pollutants to the atmosphere, unless exempted in paragraph (c) of this section.

(c) *What is exempted from this section?* This section does not apply to open burning; agricultural activities (except orchard heating devices); forestry and silvicultural activities; sweat houses or lodges; non-commercial smoke houses; public roads owned or maintained by any Federal, Tribal, State, or local government; emissions from fuel combustion in mobile sources; or activities associated with single-family residences or residential buildings with four or fewer dwelling units.

(d) *What are the opacity limits for air pollution sources?* (1) The visible emissions from an air pollution source must not exceed 20% opacity, averaged over any consecutive 6-minute period, unless paragraph (d)(2), (3) or (4) of this section applies to the air pollution source.

(2) The visible emissions from an air pollution source may exceed the 20% opacity limit if the owner or operator of the air pollution source demonstrates to the Regional Administrator's satisfaction that the presence of uncombined water, such as steam, is the only reason for the

failure of an air pollution source to meet the 20% opacity limit.

(3) The visible emissions from an oil-fired boiler or solid fuel-fired boiler that continuously measures opacity with a COMS may exceed the 20% opacity limit during start-up, soot blowing, and grate cleaning for a single period of up to 15 consecutive minutes in any eight consecutive hours, but must not exceed 60% opacity at any time.

(4) Starting [**DATE THREE YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE**], the visible emissions from an orchard heating device must not exceed 20% opacity, averaged over any consecutive 6-minute period:

(i) If orchard heating devices cannot comply with the 20% opacity limit and alternatives that are capable of complying with the 20% opacity limit are not reasonably available, the owner or operator of an orchard heating device may apply to the Regional Administrator for an extension of the three-year deadline. The application for an extension must include an explanation of why no complying alternatives are reasonably available.

(ii) If the Regional Administrator finds that there are no reasonably available complying alternatives, then a two-year extension of the deadline may be granted. There is no limit to the number of extensions that may be granted by the Regional Administrator.

(e) *What is the reference method for determining compliance?* (1) The reference method for determining compliance with the opacity limits is EPA Method 9. A complete description of this method is found in appendix A to 40 CFR part 60.

(2) An alternative reference method for determining compliance is a COMS that complies with Performance Specification 1 found in appendix B to 40 CFR part 60.

§ 49.125 Rule for limiting the emissions of particulate matter.

(a) *What is the purpose of this section?* This section limits the amount of particulate matter that may be emitted to the atmosphere from certain air pollution sources operating within an Indian reservation to control ground-level concentrations of PM_{2.5} and PM₁₀.

(b) *Who is affected by this section?* This section applies to any person who owns or operates

an air pollution source that emits, or could emit, particulate matter to the atmosphere through a stack, unless exempted in paragraph (c) of this section.

(c) *What is exempted from this section?* This section does not apply to woodwaste burners; furnaces and boilers used exclusively for space heating with a rated heat input capacity of less than 400,000 Btu per hour; non-commercial smoke houses; sweat houses or lodges; orchard heating devices; mobile sources; or activities associated with single-family residences or residential buildings with four or fewer dwelling units.

(d) *What are the particulate matter limits for air pollution sources?* (1) Particulate matter emissions from a combustion source stack (except for wood-fired boilers) must not exceed an average of 0.23 grams per dry standard cubic meter (0.10 grains per dry standard cubic foot), corrected to seven percent oxygen, during any 3-hour period.

(2) Particulate matter emissions from a wood-fired boiler stack must not exceed an average of 0.46 grams per dry standard cubic meter (0.20 grains per dry standard cubic foot), corrected to seven percent oxygen, during any 3-hour period.

(3) Particulate matter emissions from a process source stack, or any other stack not subject to paragraph (d)(1) or (2) of this section, must not exceed an average of 0.23 grams per dry standard cubic meter (0.10 grains per dry standard cubic foot), during any 3-hour period.

(e) *What is the reference method for determining compliance?* (1) The reference method for determining compliance with the particulate matter limits is EPA Method 5. A complete description of this method is found in appendix A to 40 CFR part 60.

(2) EPA Methods 1 through 4, as appropriate, must be conducted in conjunction with Method 5 to calculate the volumetric flow, oxygen content, and moisture content of the samples. A complete description of these additional test methods is found in appendix A to 40 CFR part 60.

§ 49.126 Rule for limiting fugitive particulate matter emissions.

(a) *What is the purpose of this section?* This section limits the amount of fugitive particulate matter that may be emitted to the atmosphere from certain air pollution sources operating within

an Indian reservation to control ground-level concentrations of PM_{2.5} and PM₁₀.

(b) *Who is affected by this section?* This section applies to any person who owns or operates a source of fugitive particulate matter emissions.

(c) *What is exempted from this section?* This section does not apply to open burning; agricultural activities; forestry and silvicultural activities; sweat houses or lodges; non-commercial smoke houses; public roads owned or maintained by any Federal, Tribal, State, or local government; or activities associated with single-family residences or residential buildings with four or fewer dwelling units.

(d) *What are the requirements for sources of fugitive particulate matter emissions?* (1) The owner or operator of any source of fugitive particulate matter emissions, including any source or activity engaged in materials handling or storage, construction, demolition, or any other operation that is or may be a source of fugitive particulate matter emissions, must take all reasonable precautions to prevent fugitive particulate matter emissions and must maintain and operate the source to minimize fugitive particulate matter emissions.

(2) Reasonable precautions include, but are not limited to the following:

(i) Use, where possible, of water or chemicals for control of dust in the demolition of buildings or structures, construction operations, grading of roads, or clearing of land.

(ii) Application of asphalt, oil (but not used oil), water, or other suitable chemicals on unpaved roads, materials stockpiles, and other surfaces that can create airborne dust.

(iii) Full or partial enclosure of materials stockpiles in cases where application of oil, water, or chemicals is not sufficient or appropriate to prevent particulate matter from becoming airborne.

(iv) Implementation of good housekeeping practices to avoid or minimize the accumulation of dusty materials that have the potential to become airborne, and the prompt cleanup of spilled or accumulated materials.

(v) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials.

(vi) Adequate containment during sandblasting or other similar operations.

(vii) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne.

(viii) The prompt removal from paved streets of earth or other material that does or may become airborne.

(e) *Are there additional requirements that must be met?* (1) A person subject to this section must:

(i) Annually survey the air pollution source(s) during typical operating conditions and meteorological conditions conducive to producing fugitive particulate matter to determine the sources of fugitive particulate matter emissions. For new sources or new operations, a survey must be conducted within 30 days after beginning operation. For portable sources, a survey must be conducted within 7 days after beginning operation at a new location. Simultaneously document the results of the survey, including the date and time of the survey and identification of any sources of fugitive particulate matter emissions found.

(ii) If sources of fugitive particulate matter emissions are present, determine the reasonable precautions that will be taken to prevent fugitive particulate matter emissions.

(iii) Within 30 days after completing the survey, prepare a written plan that specifies the reasonable precautions that will be taken and the procedures to be followed to prevent fugitive particulate matter emissions, including appropriate monitoring and recordkeeping. For construction or demolition activities, a written plan must be prepared prior to commencing construction or demolition. For portable sources, a written plan must be prepared prior to beginning operation at a new location and the plan must be updated within 7 days after the survey required in paragraph (e)(1)(i) of this section is completed, if needed, to reflect the results of the survey. Plans must be reviewed and updated at least annually after each survey and more frequently if warranted due to changes in operations, available control methods or other relevant conditions;

(iv) If the owner or operator is required to register the facility under § 49.138:

(A) For new sources or new operations, a copy of the initial fugitive particulate matter survey and initial plan must be submitted to EPA with the initial registration, which is due within 90 days after beginning operation.

(B) For all other sources, a copy of the most recent fugitive particulate matter survey and current plan must be submitted to EPA with the annual registration required by § 49.138.

(v) Maintain a copy of the survey and plan on site;

(vi) Implement the written plan, including the installation of control measures, as expeditiously as practicable and maintain and operate the source to minimize fugitive particulate matter emissions.

(vii) Maintain records for 5 years that document the surveys and the reasonable precautions that were taken to prevent fugitive particulate matter emissions.

(2) The Regional Administrator may require the owner or operator to revise the plan if, at any time, the Regional Administrator determines that the precautions and procedures specified in the plan are not adequate to ensure that all reasonable precautions are being taken to prevent fugitive particulate matter emissions or are not adequate to ensure that the source is being maintained and operated so as to minimize fugitive particulate matter emissions.

(3) The Regional Administrator may require specific actions to prevent fugitive particulate matter emissions or impose conditions to maintain and operate the air pollution source to minimize fugitive particulate matter emissions, in a permit to construct or a permit to operate for the source.

(4) Efforts to comply with this section cannot be used as a reason for not complying with other applicable laws and ordinances.

§ 49.127 Rule for woodwaste burners.

(a) *What is the purpose of this section?* This section phases out the operation of woodwaste burners, and in the interim limits the visible emissions from woodwaste burners, within an Indian

reservation to control emissions of particulate matter to the atmosphere and ground-level concentrations of PM_{2.5} and PM₁₀.

(b) *Who is affected by this section?* This section applies to any person who owns or operates a woodwaste burner.

(c) *What are the requirements for woodwaste burners?* (1) Except as provided by paragraph (c)(3) of this section, the owner or operator of a woodwaste burner must shut down and dismantle the woodwaste burner by no later than 2 years after the date that this section is effective for a particular Indian reservation as specified in subpart M of this part. The requirement for dismantling applies to all woodwaste burners regardless of whether or not the woodwaste burners are currently operational. Until the woodwaste burner is shut down, visible emissions from the woodwaste burner must not exceed 20% opacity, averaged over any consecutive 6-minute period.

(2) Until the woodwaste burner is shut down, only wood waste generated on-site may be burned or disposed of in the woodwaste burner.

(3) If there is no reasonably available alternative method of disposal for the wood waste other than by burning it on-site in a woodwaste burner, the owner or operator of the woodwaste burner that is in compliance with the opacity limit in paragraph (c)(1) of this section may apply to the Regional Administrator for an extension of the 2-year deadline. If the Regional Administrator finds that there is no reasonably available alternative method of disposal, then a two-year extension of the deadline may be granted. There is no limit to the number of extensions that may be granted by the Regional Administrator.

(d) *What is the reference method for determining compliance with the opacity limit?* The reference method for determining compliance with the opacity limit is EPA Method 9. A complete description of this method is found in appendix A to 40 CFR part 60.

(e) *Are there additional requirements that must be met?* A person subject to this section must submit a plan to shut down and dismantle the woodwaste burner to the Regional Administrator

within 180 days after the effective date of this section. Unless an extension has been granted by the Regional Administrator, the woodwaste burner must be shut down and dismantled within 2 years after the effective date of this section for a particular Indian reservation. The owner or operator of the woodwaste burner must notify the Regional Administrator that the woodwaste burner has been shut down and dismantled within 30 days after completion.

§ 49.128 Rule for limiting particulate matter emissions from wood products industry sources.

(a) *What is the purpose of this section?* This section limits the amount of particulate matter that may be emitted to the atmosphere from certain wood products industry sources operating within an Indian reservation to control ground-level concentrations of PM_{2.5} and PM₁₀.

(b) *Who is affected by this section?* This section applies to any person who owns or operates any of the following wood products industry sources:

- (1) Veneer manufacturing operations;
- (2) Plywood manufacturing operations;
- (3) Particleboard manufacturing operations; and
- (4) Hardboard manufacturing operations.

(c) *What are the PM₁₀ emission limits for wood products industry sources?* These PM₁₀ limits are in addition to, and not in lieu of, the particulate matter limits for combustion sources and process sources.:

(1) *Veneer dryers at veneer manufacturing operations and plywood manufacturing operations.*

(i) PM₁₀ emissions from direct natural gas fired or direct propane fired veneer dryers must not exceed 0.3 pounds per 1000 square feet of veneer dried (3/8 inch basis), 1-hour average.

(ii) PM₁₀ emissions from steam heated veneer dryers must not exceed 0.3 pounds per 1000 square feet of veneer dried (3/8 inch basis), 1-hour average.

(iii) PM₁₀ emissions from wood fired veneer dryers must not exceed a total of 0.3 pounds per

1000 square feet of veneer dried (3/8 inch basis) and 0.2 pounds per 1000 pounds of steam generated in boilers, prorated for the amount of combustion gases routed to the veneer dryer, 1-hour average.

(2) *Wood particle dryers at particleboard manufacturing operation.* PM₁₀ emissions from wood particle dryers must not exceed a total of 0.4 pounds per 1000 square feet of board produced by the plant (3/4 inch basis), 1-hour average.

(3) *Press/cooling vents at hardboard manufacturing operations.* PM₁₀ emissions from hardboard press/cooling vents must not exceed 0.3 pounds per 1000 square feet of hardboard produced (1/8 inch basis), 1-hour average.

(4) *Tempering ovens at hardboard manufacturing operations.* A person must not operate any hardboard tempering oven unless all gases and vapors are collected and treated in a fume incinerator capable of raising the temperature of the gases and vapors to at least 1500 degrees Fahrenheit for 0.3 seconds or longer.

(d) *What is the reference method for determining compliance?* (1) The reference method for determining compliance with the PM₁₀ limits is EPA Method 202 in conjunction with Method 201A. A complete description of these methods is found in appendix M to 40 CFR part 51.

(2) EPA Methods 1 through 2H, as appropriate, must be conducted in conjunction with Methods 202 and 201A to calculate the volumetric flow of the samples. A complete description of these additional test methods is found in appendix A to 40 CFR part 60.

§ 49.129 Rule for limiting emissions of sulfur dioxide.

(a) *What is the purpose of this section?* This section limits the amount of sulfur dioxide (SO₂) that may be emitted to the atmosphere from certain air pollution sources operating within an Indian reservation to control ground-level concentrations of SO₂.

(b) *Who is affected by this section?* This section applies to any person who owns or operates an air pollution source that emits, or could emit, SO₂ through a stack to the atmosphere.

(c) *What is exempted from this section?* This section does not apply to furnaces and boilers

used exclusively for space heating with a rated heat input capacity of less than 400,000 Btu per hour; orchard heating devices; or mobile sources.

(d) *What are the sulfur dioxide limits for sources?* (1) Sulfur dioxide emissions from a combustion source stack must not exceed an average of 500 parts per million by volume, on a dry basis and corrected to seven percent oxygen, during any 3-hour period.

(2) Sulfur dioxide emissions from a process source stack, or any other stack not subject to paragraph (d)(1) of this section, must not exceed an average of 500 parts per million by volume, on a dry basis, during any 3-hour period.

(e) *What are the reference methods for determining compliance?* (1) The reference methods for determining compliance with the SO₂ limits are EPA Methods 6, 6A, 6B, and 6C as specified in the applicability section of each method. A complete description of these methods is found in appendix A to 40 CFR part 60.

(2) EPA Methods 1 through 4, as appropriate, must be conducted in conjunction with the test methods in paragraph (e)(1) of this section to calculate the volume, oxygen content, and moisture content of the sample. A complete description of these additional methods can also be found in appendix A to 40 CFR part 60.

(3) An alternative reference method is a CEMS that complies with Performance Specification 2 found in appendix B to 40 CFR part 60.

§ 49.130 Rule for limiting sulfur in fuels.

(a) *What is the purpose of this section?* This section limits the amount of sulfur contained in fuels that are burned at stationary sources operating within an Indian reservation to control emissions of SO₂ to the atmosphere and ground-level concentrations of SO₂.

(b) *Who is affected by this section?* This section applies to any person who sells, distributes, uses, or makes available for use, any fuel oil, coal, solid fuel, liquid fuel, or gaseous fuel within an Indian reservation.

(c) *What is exempted from this section?* This section does not apply to gasoline and diesel

fuel, such as automotive and marine diesel, regulated under 40 CFR part 80.

(d) *What are the sulfur limits for fuels?* A person must not sell, distribute, use, or make available for use any fuel oil, coal, solid fuel, liquid fuel, or gaseous fuel that contains more than the following amounts of sulfur, as determined by the appropriate reference method(s) from paragraph (e) of this section:

- (1) For distillate fuel oil, 0.3 percent by weight for Grade 1 fuel oil in ASTM D396;
- (2) For distillate fuel oil, 0.5 percent by weight for Grade 2 fuel oil in ASTM D396;
- (3) For residual fuel oil, 1.75 percent sulfur by weight for Grades 4, 5, or 6 fuel oil in ASTM D396;
- (4) For used oil, 2.0 percent sulfur by weight;
- (5) For any liquid fuel not listed in paragraphs (d)(1) through (4) of this section, 2.0 percent sulfur by weight;
- (6) For coal, 1.0 percent sulfur by weight;
- (7) For solid fuels, 2.0 percent sulfur by weight; and
- (8) For gaseous fuels, 400 ppm by volume at standard conditions.

(e) *What are the reference methods for determining compliance?* The reference methods for determining the amount of sulfur in a fuel are as follows:

- (1) Sulfur content in fuel oil or liquid fuels: ASTM D2880-, D4294, and D6021;
- (2) Sulfur content in coal: ASTM D4239;
- (3) Sulfur content in solid fuels: ASTM E775; and
- (4) Sulfur content in gaseous fuels: ASTM D1072, D3246, D4084, D5504, D4468, D2622 and D6228.

(f) *Are there additional requirements that must be met?* (1) A person subject to this section must:

- (i) For fuel oils and liquid fuels, obtain, record, and keep records of the percent sulfur by weight from the vendor for each purchase of fuel. If the vendor is unable to provide this

information, obtain a representative grab sample for each purchase and test the sample using the appropriate reference method from paragraph (e)(1) of this section.

(ii) For gaseous fuels, either obtain, record, and keep records of the sulfur content from the vendor, or continuously monitor the sulfur content of the fuel gas line using a method that meets the requirements of Performance Specification 5, 7, 9, or 15 (as applicable for the sulfur compounds in the gaseous fuel) of appendix B and appendix F to 40 CFR part 60. If only purchased natural gas is used, keep records showing that the gaseous fuel meets the definition of natural gas in 40 CFR 72.2.

(iii) For coal and solid fuels, either obtain, record, and keep records of the percent sulfur by weight from the vendor for each purchase of coal or solid fuel, or obtain a representative grab sample for each day of operation and test the sample using the appropriate reference method from paragraphs (e)(2) and (3) of this section. If only wood is used, keep records showing that only wood was used.

(2) Records of fuel purchases and fuel sulfur content must be kept for a period of five years from date of purchase and must be made available to the Regional Administrator upon request.

(3) The owner or occupant of a single-family residence, and the owner or manager of a residential building with four or fewer dwelling units, is not subject to the requirement to obtain and record the percent sulfur content from the vendor if the fuel used in an oil, coal, or gas furnace is purchased from a licensed fuel distributor.

(g) *Incorporation by reference.* The material listed in this paragraph (g) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the EPA and at the National Archives and Records Administration (NARA). Contact EPA at: EPA Region 10, Air and Radiation Division, 1200 Sixth Avenue, Seattle, Washington 98101; phone: 206-553-1200; website: www.epa.gov/aboutepa/epa-region-10-pacific-northwest. For information on the availability of this material at NARA, email: fr.inspection@nara.gov;

website: www.archives.gov/federal-register/cfr/ibr-locations.html. The material may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959; telephone: (610) 832-9500; email: service@astm.org; website: <http://www.astm.org>.

- (1) ASTM D396-21, Standard Specification for Fuel Oils.
- (2) ASTM D1072-06(Reapproved 2017), Standard Test Method for Total Sulfur in Fuel Gases by Combustion and Barium Chloride Titration.
- (3) ASTM D2622-21, Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-ray Fluorescence Spectrometry.
- (4) ASTM D2880-20, Standard Specification for Gas Turbine Fuel Oils.
- (5) ASTM D3246-15, Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry.
- (6) ASTM D4084-07(Reapproved 2017), Standard Test Method for Analysis of Hydrogen Sulfide in Gaseous Fuels (Lead Acetate Reaction Rate Method).
- (7) ASTM D4239-18e1, Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke Using High Temperature Tube Furnace Combustion Methods.
- (8) ASTM D4294-21, Standard Test Method for Sulfur in Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectroscopy.
- (9) ASTM D4468-85(Reapproved 2015), Standard Test Method for Total Sulfur in Gaseous Fuels by Hydrogenolysis and Rateometric Colorimetry.
- (10) ASTM D5504-20, Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence.
- (11) ASTM D6021-22, Standard Test Method for Measurement of Total Hydrogen Sulfide in Residual Fuels by Multiple Headspace Extraction and Sulfur Specific Detection.
- (12) ASTM D6228-19, Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Flame Photometric Detection.
- (13) ASTM E775-15(Reapproved 2021), Standard Test Methods for Total Sulfur in the

Analysis Sample of Refuse-Derived Fuel.

§ 49.131 General rule for open burning.

(a) *What is the purpose of this section?* This section identifies the types of materials that are allowed to be openly burned within an Indian reservation and the conditions on such burning to control emissions of air pollutants to the atmosphere and ground-level concentrations of PM_{2.5} and PM₁₀. It is EPA's goal to eliminate open burning disposal practices where alternative methods are feasible and practicable, to encourage the development of alternative disposal methods, to emphasize resource recovery, and to encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible.

(b) *Who is affected by this section?* This section applies to any person who conducts open burning and to the owner and lessee, if any, of the property on which open burning is conducted.

(c) *What is exempted from this section?* The following open burns are exempted from this section:

- (1) Outdoor fires set for cultural or traditional purposes;
- (2) Fires set for cultural or traditional purposes within structures such as smoke houses, sweat houses, or sweat lodges;
- (3) Outdoor cooking fires;
- (4) Fires set as part of a firefighting strategy (e.g., back burn, fire break, or safety perimeter burn), if approved by the appropriate fire safety jurisdiction and only under an emergency or incident command situation; and
- (5) Except when burning is prohibited under paragraph (d)(2) or (d)(3) of this section, fires set for the disposal of diseased animals or other material by order of a public health authority.

(d) *What are the requirements for open burning?* (1) All open burning is prohibited except:

- (i) Natural vegetation and untreated wood may be open burned.
- (ii) A single-family residence or residential building with four or fewer dwelling units may

open burn paper, paper products, or cardboard generated on site.

(iii) Paper and manufactured fire starters may be used to start a fire authorized under paragraph (d)(1)(i) or (d)(1)(ii) of this section.

(iv) Open outdoor fires may be conducted by qualified personnel to train firefighters in the methods of fire suppression and firefighting techniques subject to the requirements of paragraph (e)(4) of this section.

(v) Tribal governments may conduct open outdoor fires to dispose of fireworks and associated packaging materials subject to the requirements of paragraph (e)(5) of this section.

(2) All open burning is prohibited whenever the Regional Administrator declares a burn ban due to deteriorating air quality except for burning exempt under paragraph (c)(1), (2), (3) or (4) of this section.

(i) A burn ban may be declared for an Indian reservation (or portion thereof) whenever the Regional Administrator determines that air quality levels have exceeded, or are projected to exceed within the next 72 hours, 75% of any 24-hour national ambient air quality standard for particulate matter, and these levels are projected to continue or reoccur over at least the subsequent 24 hours.

(ii) A burn ban will remain in effect until the Regional Administrator terminates the burn ban.

(iii) The Regional Administrator will post an announcement of a burn ban on the EPA Region 10 website and will consider other means to announce the burn ban, such as posting the announcement on Region 10's social media and requesting Tribes within the affected area to post the announcement on their websites. Delegated Tribes may use these and other similar means to make announcements. Announcements of the termination of a burn ban will be made in the same manner.

(3) All open burning is also prohibited whenever the Regional Administrator issues an air stagnation advisory or declares an air pollution alert, air pollution warning, or air pollution emergency pursuant to § 49.137 Rule for air pollution episodes except for burning exempt under

paragraph (c)(1), (2), (3) or (4) of this section. The prohibition on open burning will remain in effect until the Regional Administrator terminates the advisory, alert, warning or emergency.

(4) Nothing in this section exempts or excuses any person from complying with any applicable laws and ordinances of Tribal governments, local fire departments, and other governmental entities.

(e) *Are there additional requirements that must be met?* (1) Except for burning conducted under paragraphs (e)(4) and (5) of this section and except for recreational fires, a person subject to this section must conduct open burning as follows:

(i) All materials to be openly burned must be kept as dry as possible through the use of a cover or dry storage.

(ii) Before igniting a burn, dirt and stones must be separated from the materials to be openly burned to the greatest extent practicable.

(iii) Natural or artificially induced draft must be present.

(iv) To the greatest extent practicable, materials to be openly burned must be separated from the grass or peat layer.

(v) A fire must not be allowed to smolder, unless, where applicable, the burn is permitted under § 49.132, § 49.133, or § 49.134, the permit specifically allows the fire to smolder, and the burn is actively managed to complete the burn in the shortest possible time within the time period allowed by the burn permit.

(vi) A person 18 years of age or older must be in attendance at all times during the burn.

(vii) There must be a means available for extinguishing the fire, such as water or chemical fire suppressants.

(viii) The fire must be extinguished if safe to do so, when requested to do so by the Regional Administrator based on a determination that:

(A) The open burning is causing or contributing to, or has the potential to cause or contribute to, an exceedance of a national ambient air quality standard; or

(B) When relevant, that the open burning is causing any other adverse impact on air quality.

(ix) Except for small open burns, before igniting a burn that could significantly impair visibility on roadways, the relevant transportation safety authorities must be contacted and provided an opportunity to require appropriate transportation safety measures during the burn.

(2) Except for burning exempt under paragraph (c)(1), (2), (3) or (4) of this section, open burning shall not be initiated when:

(i) The Regional Administrator has declared a burn ban under this section; or

(ii) An air stagnation advisory has been issued or an air pollution alert, air pollution warning, or air pollution emergency has been declared by the Regional Administrator under § 49.137.

(3) Except for burning exempt under paragraph (c)(1), (2), (3) or (4) of this section, when a burn ban is declared under paragraph (d)(2) of this section or an advisory is issued or declaration made under paragraph (d)(3) of this section, the open burn must be immediately extinguished if safe to do so, lighting the fire must be discontinued and additional material must be withheld from the fire so the fire burns down, as applicable.

(4) Except when burning is prohibited under paragraph (d)(2) or (3) of this section and with prior written permission from the Regional Administrator (and after obtaining a large open burning permit, if applicable under § 49.132 and if § 49.132 applies on the Reservation where the burn is occurring), open outdoor fires used by qualified personnel to train firefighters in the methods of fire suppression and firefighting techniques are allowed, subject to the following conditions:

(i) Prior to igniting any structure, the fire protection service must ensure the structure does not contain asbestos or asbestos-containing materials and must comply with subpart M of 40 CFR part 61.

(ii) Before requesting permission from the Regional Administrator, the fire protection service must notify any appropriate Tribal air pollution authority and fire safety authority and obtain any permissions or approvals required by the Tribe, and by any other governments with applicable

laws and ordinances.

(iii) Prior to igniting any structure and at least 10 business days before the requested date of the training fire, the fire protection service must submit a request for permission for the training fire to the Regional Administrator that includes the following information:

- (A) The name and address of the fire protection service;
- (B) The name and contact information for the fire protection service trainer, including a phone number where they can be reached on the day of the training fire;
- (C) The location (including the street address if available) where the training will take place;
- (D) A description of what will be burned during the training;
- (E) The requested date and time of the training;
- (F) The results of an asbestos survey and any removal required;
- (G) A copy of the Asbestos Demolition and Renovation Projects Notification required by subpart M of 40 CFR part 61; and
- (H) A statement that the requestor has read and understands the open burning requirements in this section.

(iv) The fire protection service must ensure that the structure does not contain any batteries; stored chemicals such as pesticides, herbicides, fertilizers, paints, glues, sealers, tars, solvents, household cleaners, or photographic reagents; stored linoleum, plastics, rubber, tires, or insulated wire; or hazardous wastes.

(v) Written permission from the Regional Administrator for the training fire must be available on site the day of the fire.

(vi) The training fire shall not be allowed to smolder after the training session has terminated.

(5) Except when burning is prohibited under paragraph (d)(2) or (3) of this section and with prior written permission from the Regional Administrator (and after obtaining a large open burning permit, if applicable under § 49.132 and if § 49.132 applies on the Reservation where the burn is occurring), Tribal governments may conduct open outdoor fires to dispose of

fireworks and associated packaging materials, subject to the following conditions:

(i) Before requesting permission from the Regional Administrator, the person who will be managing the fireworks disposal fire must notify any appropriate Tribal air pollution authority and fire safety authority and obtain any permissions or approvals required by the Tribe, and by any other governments with applicable laws and ordinances.

(ii) Prior to igniting fireworks for disposal and at least 5 business days before the requested date of the fireworks disposal fire, the Tribal government must submit a request for permission for the fireworks disposal fire to the Regional Administrator that includes the following information:

(A) The name and address of the Tribal government;

(B) The name and contact information for the person who will be on site managing the fireworks disposal fire, including a phone number where they can be reached on the day of the disposal fire;

(C) The location (including the street address if available) where the fire will occur;

(D) The requested date and time of the fire;

(E) The estimated size of the fireworks disposal burn pile or weight of materials to be burned;

(F) A description of the means for containing any explosions and for fire suppression, including but not limited to the availability of water or chemical fire suppressants; and

(G) A statement that the requestor has read and understands the open burning requirements in this section; and

(iii) Written permission from the Regional Administrator for the fireworks disposal fire must be available on site the day of the fire.

(6) Open burning may also be subject to permitting requirements under § 49.132, § 49.142§ 49.143, § 49.133, or § 49.134, or an applicable EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part.

§ 49.132 Rule for large open burning permits.

(a) *What is the purpose of this section?* This section establishes a permitting program for large open burning within an Indian reservation to control emissions of air pollutants to the atmosphere and ground-level concentrations of PM_{2.5} and PM₁₀.

(b) *Who is affected by this section?* This section applies to the owner and lessee, if any, of the property on which a large open burn is conducted and to any person who conducts a large open burn.

(c) *What is exempted from this section?* The following open burning is exempted from this section:

- (1) Outdoor fires set for cultural or traditional purposes;
- (2) Fires set for cultural or traditional purposes within structures such as smoke houses, sweat houses, or sweat lodges;
- (3) Outdoor cooking fires;
- (4) Fires set for recreational purposes;
- (5) Fires set as part of a firefighting strategy (e.g., back burn, fire break, or safety perimeter burn), if approved by the appropriate fire safety jurisdiction and only under an emergency or incident command situation;
- (6) Fires set for the disposal of diseased animals or other material by order of a public health authority;
- (7) Agricultural burning; and
- (8) Forestry and silvicultural burning.

(d) *What are the requirements for large open burning?* (1) A person subject to this section must have a permit to conduct a large open burn, have approval to burn on the day(s) of the burn, ensure that the person conducting the burn is familiar with the requirements of the permit, ensure that the permit is available on the property during the open burn, and conduct the open burn in accordance with the terms and conditions of the permit.

- (2) The date after which a permit is required under this section is identified in the

implementation plan in subpart M of this part for the specific Indian reservation where this section applies.

(3) A person subject to this section must comply with § 49.131 or the EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, as applicable.

(4) Nothing in this section exempts or excuses any person from complying with any applicable laws and ordinances of Tribal governments, local fire departments or other governmental entities.

(e) *Are there additional requirements that must be met?* (1) The owner or lessee of the property on which the large open burn will be conducted must submit an application to the Regional Administrator for each proposed large open burn. The application must be submitted in writing, on forms provided by the Regional Administrator, and be received by the Regional Administrator at least 1 business day before the proposed date the burn would be conducted or by such earlier date specified by the Regional Administrator in the application form. The forms will require, at a minimum, the following information:

(i) Street address of the property on which the proposed open burning will be conducted or, if there is no street address of the property, the legal description of the property.

(ii) Name, mailing address, email address and telephone number of the applicant, who must be the owner or lessee of the property on which the proposed open burning will be conducted.

(iii) Name, mailing address, email address and telephone number of the person who will be conducting the proposed open burning.

(iv) Name, mailing address, email address and telephone number of the owner or lessee, if any, of the property on which the proposed open burning will be conducted, if different from the applicant identified in paragraph (e)(1)(ii) of this section.

(v) A plot plan showing the location of the proposed open burn in relation to the property lines and indicating the distances and directions of the nearest residential, public, and commercial

properties, as well as roads and other sensitive areas that could be affected by the smoke from the burning.

(vi) The type and quantity of materials proposed to be burned and the area over which the open burning will be conducted.

(vii) A description of the burning method(s) to be used (pile burn, ditch burn, broadcast burn, windrow burn, etc.), the amount of material to be burned with each method, and the means of ignition.

(viii) A description of the measures that will be taken to prevent escaped burns, including but not limited to the availability of water.

(ix) The requested date(s) when the proposed large open burn would be conducted.

(x) Any other information specifically requested by the Regional Administrator.

(2) At least 1 business day prior to the requested date of a proposed large open burn, the person conducting the burn must contact the Regional Administrator as specified in the large open burning permit to request approval to burn. If the proposed open burning is consistent with this section and § 49.131 or the applicable EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, the Regional Administrator may approve the large open burn for the requested day(s) after taking into consideration relevant factors including, but not limited to:

(i) The size, duration, and location of the proposed open burn, the current and projected air quality conditions, the forecasted meteorological conditions, and other scheduled burning activities in the surrounding area;

(ii) Other factors indicating whether or not the proposed open burn can be conducted without causing or contributing to an exceedance of a national ambient air quality standard; and

(iii) When relevant, other factors indicating whether or not the proposed open burn can be conducted without causing any other adverse impact on air quality.

(3) The permit will authorize burning only for the date(s) and time(s) approved for the burning

to be conducted and will include any conditions that the Regional Administrator determines are necessary to ensure compliance with this section, § 49.131 or the applicable EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, and to protect the public health and welfare, including any monitoring, recordkeeping and post-burn reporting requirements.

(4) If any of the relevant factors in paragraph (e)(2) of this section change after approval to conduct the large open burn, the Regional Administrator may contact the person conducting the burn to revoke the approval and require the permittee to immediately extinguish the fire if safe to do so, discontinue lighting the fire and withhold additional material such that the fire burns down, as applicable.

(5) The Regional Administrator, to the extent practical, will consult with and coordinate approvals to burn with the open burning programs of surrounding jurisdictions.

§ 49.133 Rule for agricultural burning permits.

(a) *What is the purpose of this section?* This section establishes a permitting program for agricultural burning within an Indian reservation to control emissions of air pollutants to the atmosphere and ground-level concentrations of PM_{2.5} and PM₁₀.

(b) *Who is affected by this section?* This section applies to the owner and lessee, if any, of the property on which agricultural burning is conducted and to any person who conducts agricultural burning.

(c) *What are the requirements for agricultural burning?* (1) A person subject to this section must have a permit to conduct an agricultural burn, have approval to burn on the day(s) of the burn, ensure that the person conducting the burn is familiar with the requirements of the permit, ensure that the permit is available on the property during the burn, and conduct the burn in accordance with the terms and conditions of the permit.

(2) The date after which a permit is required under this section is identified in the implementation plan in subpart M of this part for the specific Indian reservation where this

section applies.

(3) A person subject to this section must comply with § 49.131 or the EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, as applicable.

(4) Nothing in this section exempts or excuses any person from complying with any applicable laws and ordinances of Tribal governments, local fire departments, or other governmental entities.

(d) *Are there additional requirements that must be met?* (1) The owner or lessee of the property on which an agricultural burn will be conducted must submit an application to the Regional Administrator for each proposed agricultural burn. The application must be submitted in writing, on forms provided by the Regional Administrator, and be received by the Regional Administrator at least 1 business day before the proposed date the burn would be conducted or by such earlier date specified by the Regional Administrator in the application form. The forms will require, at a minimum, the following information:

(i) Street address of the property on which the proposed agricultural burning will be conducted or, if there is no street address of the property, the legal description of the property.

(ii) Name, mailing address, email address and telephone number of the applicant, who must be the owner or lessee of the property on which the proposed agricultural burning will be conducted.

(iii) Name, mailing address, email address and telephone number of the person who will be conducting the proposed agricultural burning.

(iv) Name, mailing address, email address and telephone number of the owner or lessee, if any, of the property on which the proposed agricultural burning will be conducted, if different from the applicant identified in paragraph (d)(1)(ii) of this section.

(v) A plot plan showing the location of each proposed agricultural burning area in relation to the property lines and indicating the distances and directions of the nearest residential, public,

and commercial properties, as well as roads and other sensitive areas that could be affected by the smoke from the burning.

(vi) The type and quantity of agricultural wastes proposed to be burned and the area over which burning will be conducted.

(vii) A description of the burning method(s) to be used (pile or stack burn, open field or broadcast burn, windrow burn, mobile field sanitizer, etc.), the amount of material to be burned with each method, and the means of ignition.

(viii) A description of the measures that will be taken to prevent escaped burns, including but not limited to the availability of water and plowed firebreaks.

(ix) The requested date(s) when the proposed agricultural burning would be conducted.

(x) Any other information specifically requested by the Regional Administrator.

(2) At least 1 business day prior to the requested date of the proposed agricultural burning, the person conducting the burn must contact the Regional Administrator as specified in the agricultural burning permit to request approval to burn. If the proposed agricultural burning is consistent with this section and § 49.131 or the applicable EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, the Regional Administrator may approve the agricultural burning for the requested day(s) after taking into consideration relevant factors including, but not limited to:

(i) The size, duration, and location of the proposed burn, the current and projected air quality conditions, the forecasted meteorological conditions, and other scheduled burning activities in the surrounding area;

(ii) Other factors indicating whether or not the proposed agricultural burning can be conducted without causing or contributing to an exceedance of a national ambient air quality standard; and

(iii) When relevant, other factors indicating whether or not the proposed open burn can be conducted without causing any other adverse impact on air quality.

(3) The permit will authorize burning only for the date(s) and time(s) approved for the burning

to be conducted and will include any conditions that the Regional Administrator determines are necessary to ensure compliance with this section, § 49.131 or the applicable EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, and to protect the public health and welfare, including any monitoring, recordkeeping and post-burn reporting requirements.

(4) If any of the relevant factors in paragraph (d)(2) of this section change after approval to conduct the agricultural burning, the Regional Administrator may contact the person conducting the burn to revoke the approval and require the permittee to immediately extinguish the fire if safe to do so, discontinue lighting the fire and withhold additional material such that the fire burns down, as applicable.

(5) The Regional Administrator, to the extent practical, will consult with and coordinate approvals to burn with the open burning programs of surrounding jurisdictions.

§ 49.134 Rule for forestry and silvicultural burning permits.

(a) *What is the purpose of this section?* This section establishes a permitting program for forestry and silvicultural burning within an Indian reservation to control emissions of air pollutants to the atmosphere and ground-level concentrations of PM_{2.5} and PM₁₀.

(b) *Who is affected by this section?* This section applies to the owner and lessee, if any, of the property on which forestry or silvicultural burning is conducted and to any person who conducts forestry or silvicultural burning.

(c) *What are the requirements for forestry and silvicultural burning?* (1) A person subject to this section must have a permit to conduct a forestry or silvicultural burn, have approval to burn on the day(s) of the burn, ensure that the person conducting the burn is familiar with the requirements of the permit, ensure that the permit is available on the property during the burn, and conduct the burn in accordance with the terms and conditions of the permit.

(2) The date after which a permit is required under this section is identified in the implementation plan in subpart M of this part for the specific Indian reservation where this

section applies.

(3) A person subject to this section, must comply with § 49.131 or the EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, as applicable.

(4) Nothing in this section exempts or excuses any person from complying with any applicable laws and ordinances of Tribal governments, local fire departments, or other governmental entities.

(d) *Are there additional requirements that must be met?* (1) The owner or lessee of the property on which a forestry or silvicultural burn will be conducted must submit an application to the Regional Administrator for each proposed forestry or silvicultural burn. The application must be submitted in writing, on forms provided by the Regional Administrator, and be received by the Regional Administrator at least 1 business day before the proposed date the burn would be conducted or by such earlier date specified by the Regional Administrator in the application form. The forms will require, at a minimum, the following information:

(i) The legal description of the property on which the proposed forestry or silvicultural burning will be conducted.

(ii) Name, mailing address, email address and telephone number of the applicant, who must be the owner or lessee of the property on which the proposed forestry or silvicultural burning will be conducted.

(iii) Name, mailing address, email address and telephone number of the person who will be conducting the proposed forestry or silvicultural burning.

(iv) Name, mailing address, email address and telephone number of the owner or lessee, if any, of the property on which the proposed forestry and silvicultural burning will be conducted, if different from the applicant.

(v) A plot plan showing the location of the proposed forestry or silvicultural burning in relation to the property lines and indicating the distances and directions of the nearest residential,

public, and commercial properties, as well as roads and other sensitive areas that could be affected by the smoke from the burning.

(vi) The type and quantity of forestry or silvicultural debris or material proposed to be burned and the area over which burning will be conducted.

(vii) A description of the burning method(s) to be used (pile burn, broadcast burn, windrow burn, understory burn, etc.), the amount of material to be burned with each method, and the means of ignition.

(viii) A description of the measures that will be taken to prevent escaped burns, including but not limited to the availability of water and firebreaks.

(ix) The requested date(s) when the proposed forestry or silvicultural burning would be conducted.

(x) Any other information specifically requested by the Regional Administrator.

(2) At least 1 business day prior to the requested date of a proposed forestry or silvicultural burn, the person conducting the burn must contact the Regional Administrator as specified in the forestry or silvicultural open burning permit to request approval to burn. If the proposed forestry or silvicultural burning is consistent with this section and § 49.131 or the applicable EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, the Regional Administrator may approve the forestry or silvicultural burning for the requested day(s) after taking into consideration relevant factors including, but not limited to:

(i) The size, duration, and location of the proposed burn, the current and projected air quality conditions, the forecasted meteorological conditions, and other scheduled burning activities in the surrounding area;

(ii) Other factors indicating whether or not the proposed forestry or silvicultural burning can be conducted without causing or contributing to an exceedance of a national ambient air quality standard; and

(iii) When relevant, other factors indicating whether or not the proposed open burn can be conducted without causing any other adverse impact on air quality.

(3) The permit will authorize burning only for the date(s) and time(s) approved for the burning to be conducted and will include any conditions that the Regional Administrator determines are necessary to ensure compliance with this section, § 49.131 or the applicable EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, and to protect the public health and welfare, including any monitoring, recordkeeping and post-burn reporting requirements.

(4) If any of the relevant factors in paragraph (d)(2) of this section change after approval to conduct the forestry or silvicultural burn, the Regional Administrator may contact the person conducting the burn to revoke the approval and require the permittee to immediately extinguish the fire if safe to do so, discontinue lighting the fire and withhold additional material such that the fire burns down, as applicable.

(5) The Regional Administrator, to the extent practical, will consult with and coordinate approvals to burn with the open burning programs of surrounding jurisdictions.

§ 49.135 Rule for emissions detrimental to public health or welfare.

(a) *What is the purpose of this section?* This section is intended to prevent the emission of air pollutants from any air pollution source operating within an Indian reservation from being detrimental to public health or welfare.

(b) *Who is affected by this section?* This section applies to any person who owns or operates an air pollution source.

(c) *What are the requirements for air pollution sources?* (1) A person must not cause or allow the emission of any air pollutants from an air pollution source, in sufficient quantities and of such characteristic and duration, that the Regional Administrator determines:

- (i) Causes or contributes to a violation of any national ambient air quality standard; or
- (ii) Is presenting an imminent and substantial endangerment to public health or welfare, or the

environment.

(2) If the Regional Administrator makes either of the determinations in paragraph (c)(1) of this section, then the Regional Administrator may require the owner or operator of the source to install air pollution controls and/or take reasonable precautions to reduce or prevent the emissions. If the Regional Administrator determines that the installation of air pollution controls and/or reasonable precautions are necessary, then the Regional Administrator will require the owner or operator to obtain a non-Title V operating permit for the source. The specific requirements will be established in the required non-Title V operating permit.

(3) Nothing in this section affects the ability of the Regional Administrator to issue an order pursuant to section 303 of the Clean Air Act to require an owner or operator to immediately reduce or cease the emission of air pollutants.

(4) Nothing in this section shall be construed to impair any cause of action or legal remedy of any person, or the public, for injury or damages arising from the emission of any air pollutant in such place, manner, or amount as to constitute a nuisance under any other applicable law.

(d) *What does someone subject to this section need to do?* A person subject to this section, must comply with the terms and conditions of any non-Title V operating permit or order issued by the Regional Administrator.

§ 49.136 [Reserved]

§ 49.137 Rule for air pollution episodes.

(a) *What is the purpose of this section?* This section establishes procedures for addressing the excessive buildup of certain criteria air pollutants. This section is intended to prevent the occurrence of an air pollution emergency within an Indian reservation due to the effects of these air pollutants on human health.

(b) *Who is affected by this section?* This section applies to any person who owns or operates an air pollution source within an Indian reservation.

(c) *What are the requirements of this section?* (1) *Air pollution action level triggers.*

Conditions justifying the issuance of an air stagnation advisory or the declaration of an air pollution alert, air pollution warning, or air pollution emergency exist whenever the Regional Administrator determines that the accumulation of air pollutants in any place is approaching, or has reached, levels that could lead to a threat to human health. The following criteria will be used for making these determinations:

(i) *Air stagnation advisory.* An air stagnation advisory may be issued by the Regional Administrator whenever meteorological conditions over a large area are conducive to the buildup of air pollutants.

(ii) *Air pollution alert.* An air pollution alert may be declared by the Regional Administrator when the air quality levels are in the Air Quality Index (AQI) Unhealthy category, or are projected to be in the Unhealthy category within the next 72 hours, at any monitoring site and the meteorological conditions are such that the levels are expected to continue or reoccur over the subsequent 24 hours.

(iii) *Air pollution warning.* An air pollution warning may be declared by the Regional Administrator when the air quality levels are in the AQI Very Unhealthy category, or are projected to be in the Very Unhealthy category within the next 72 hours, at any monitoring site and the meteorological conditions are such that the levels are expected to continue or reoccur over the subsequent 24 hours.

(iv) *Air pollution emergency.* An air pollution emergency may be declared by the Regional Administrator when the air quality levels are in the AQI Hazardous category, or are projected to be in the AQI Hazardous category within the next 72 hours, at any monitoring site and the meteorological conditions are such that the levels are expected to continue or reoccur over the subsequent 24 hours.

(v) *AQI levels.* The air quality levels for the AQI categories of Unhealthy, Very Unhealthy and Hazardous are found in Table 2 of appendix G to 40 CFR part 58.

(vi) *Termination.* Once an air stagnation advisory is issued, or an air pollution alert, air

pollution warning, or air pollution emergency is declared, it will remain in effect until the Regional Administrator either terminates the advisory, alert, warning or emergency or makes a different declaration.

(2) *Announcements by the Regional Administrator.* The Regional Administrator will post an announcement of an air stagnation advisory, air pollution alert, air pollution warning or air pollution emergency on the EPA Region 10 website and will consider other means to announce the event, such as posting the announcement on Region 10's social media and requesting Tribes within the affected area to post the announcement on their websites. Delegated Tribes may use these and other similar means to make announcements. These announcements will indicate that air pollution levels exist or may occur that could potentially be harmful to human health and indicate actions that people can take to reduce exposure. The announcements will also request voluntary actions to reduce emissions from sources of air pollutants as well as indicate that a ban on open burning is in effect, as provided in paragraphs (c)(3) and (4) of this section. Announcements of the termination of an air stagnation advisory, air pollution alert, air pollution warning, air pollution emergency or burn ban will be made in the same manner.

(3) *Voluntary curtailment of emissions by sources.* Whenever the Regional Administrator issues an air stagnation advisory or declares an air pollution alert, air pollution warning, or air pollution emergency, sources of air pollutants will be requested to take voluntary actions to reduce emissions. People should refrain from using their wood stoves and fireplaces unless they are their sole source of heat. People should reduce their use of motor vehicles to the extent possible. Industrial sources should curtail operations or switch to a cleaner fuel if possible.

(4) *Mandatory curtailment of emissions by order of the Regional Administrator.* (i) Except for fires exempted under § 49.131(c)(1), (2), (3) or (4), all open burning is prohibited whenever:

(A) The Regional Administrator issues an air stagnation advisory or declares an air pollution alert, air pollution warning, or air pollution emergency; or

(B) A burn ban is declared pursuant to § 49.131 or the applicable EPA-approved Tribal open

burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part.

(ii) Except for fires exempted under § 49.131(c)(1) through (4), any person conducting open burning when such an advisory is issued or declaration is made must immediately extinguish the fire if safe to do so, discontinue lighting the fire and withhold additional material such that the fire burns down, as applicable.

(iii) During an air pollution warning or air pollution emergency, the Regional Administrator may issue an order to any air pollution source requiring such source to curtail or eliminate the emissions.

§ 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(a) *What is the purpose of this section?* This section allows the Regional Administrator to develop and maintain a current and accurate record of air pollution sources operating within an Indian reservation and the emissions from such sources.

(b) *Who is affected by this section?* This section applies to: (1) Any person who owns or operates a part 71 source;

(2) Any person who owns or operates an air pollution source required to have a permit under the Federal Minor New Source Review Program in Indian Country (§§ 49.151 through 49.164);

(3) Any person who owns or operates any air pollution source required to have a permit under the Rule for non-Title V operating permits (§ 49.139); and

(4) Any person who owns or operates any other air pollution source that has the potential to emit more than 2 tons per year of any air pollutant listed in paragraph (e)(3)(xiii) of this section, except those air pollution sources exempted in paragraph (c) of this section.

(c) *What is exempted from this section?* This section does not apply to the following air pollution sources that would otherwise be required to register under paragraph (b)(iv) of this section:

(1) Mobile sources;

- (2) Single-family residences and residential buildings with four or fewer dwelling units;
- (3) Air conditioning units used for human comfort that do not exhaust air pollutants into the atmosphere from any manufacturing or industrial process;
- (4) Ventilating units used for human comfort that do not exhaust air pollutants into the atmosphere from any manufacturing or industrial process;
- (5) Furnaces and boilers used exclusively for space heating with a rated heat input capacity of less than 400,000 Btu per hour;
- (6) Emergency generators, designed solely for the purpose of providing electrical power during outages, provided the total maximum manufacturer's site-rated horsepower of all units is below 1,000;
- (7) Stationary internal combustion engines with a manufacturer's site rated horsepower of less than 50;
- (8) Cooking of food, except for wholesale businesses that both cook and sell cooked food;
- (9) Consumer use of office equipment and products;
- (10) Janitorial services and consumer use of janitorial products;
- (11) Maintenance and repair activities, except for air pollution sources engaged in the business of maintaining and repairing equipment;
- (12) Agricultural activities and forestry and silvicultural activities, including agricultural burning and forestry and silvicultural burning; and
- (13) Open burning.

(d) *What are the requirements of this section?* Any person who owns or operates an air pollution source subject to this section must register the source with the Regional Administrator and submit reports. The content and timing of submission of reports for a person who owns or operates a part 71 source is specified in paragraph (f) of this section. The content and timing of submission of reports for all other sources is specified in paragraph (e) of this section. All registration information and reports must be submitted via the FARR Online Reporting System

(FORS), unless prior written approval to submit such information and reports in hard copy, paper or other format has been received from EPA Region 10.

(e) *Are there additional requirements that must be met?* Any person who owns or operates an air pollution source subject to this section, except for part 71 sources, must register an air pollution source and submit reports as follows:

(1) *Initial registration.* (i) The owner or operator of an air pollution source located on an Indian reservation within Idaho, Oregon, or Washington on or before June 7, 2005 (except for the Cowlitz Indian Reservation, Snoqualmie Indian Reservations, lands held in trust for the Samish Indian Nation and any land held in trust for a Tribe that existed on June 7, 2005 and has not been formally designated as a reservation) must register the air pollution source with the Regional Administrator by no later than February 15, 2007.

(ii) The owner or operator of a new air pollution source that begins actual construction after June 7, 2005 on an Indian reservation within Idaho, Oregon, or Washington (except for the Cowlitz Indian Nation, Snoqualmie Indian Reservations, lands held in trust for the Samish Indian Nation and any land held in trust for a Tribe that existed on June 7, 2005 and has not been formally designated as a reservation) must register the air pollution source with the Regional Administrator within 90 days after beginning operation.

(iii) The owner or operator of an air pollution source located on the Cowlitz Indian Reservation, the Snoqualmie Indian Reservation, lands held in trust for the Samish Indian Nation or any land held in trust for a Tribe that has not been formally designated as a reservation and that exists on [EFFECTIVE DATE OF FINAL RULE] must register the air pollution source with the Regional Administrator by no later than [6 MONTHS AFTER EFFECTIVE DATE OF FINAL RULE].

(iv) The owner or operator of a new air pollution source which begins actual construction after [EFFECTIVE DATE OF FINAL RULE] on the Cowlitz Indian Reservation, the Snoqualmie Indian Reservation, the lands held in trust for the Samish Indian Nation or any land held in trust

for a Tribe that has not been formally designated as a reservation must register the air pollution source with the Regional Administrator within 90 days after beginning operation.

(v) The owner or operator of an air pollution source located on land that is taken into trust and becomes part of the Indian reservation for an Indian Tribe after [EFFECTIVE DATE OF FINAL RULE] must register the air pollution source with the Regional Administrator by no later than 6 months after the date that the land is taken into trust.

(vi) The owner or operator of a new air pollution source which begins actual construction on land that is taken into trust and becomes part of the Indian reservation for an Indian Tribe after [EFFECTIVE DATE OF FINAL RULE] must register the air pollution source with the Regional Administrator within 90 days after beginning operation.

(vii) Submitting an initial registration does not relieve the owner or operator from the requirement to obtain a permit to construct if the new air pollution source would be a new source or modification subject to any Federal or Tribal permit to construct rule.

(2) *Annual registration.* After initial registration, the owner or operator of an air pollution source must re-register with the Regional Administrator by February 15 of each year. The annual registration must include all of the information required in the initial registration and must be updated to reflect any changes since the previous registration. For information that has not changed since the previous registration, the owner or operator may reaffirm via the FORS that the information previously furnished to the Regional Administrator is still correct.

(3) *Information to include in initial registration and annual registration.* Each initial registration and annual registration must include the following information if it applies:

- (i) Name of the air pollution source and the nature of the business.
- (ii) Street address, email address and telephone number of the air pollution source.
- (iii) Name, mailing address, email address and telephone number of the owner.
- (iv) Name, mailing address, email address and telephone number of the operator, if different from the owner.

(v) Name, mailing address, email address and telephone number of the local individual responsible for compliance with this section.

(vi) Name, mailing address, email address and telephone number of the individual authorized to receive requests for data and information.

(vii) A description of the production processes, air pollution control equipment, and a related flow chart.

(viii) Identification of emission units and air pollutant-generating activities.

(ix) A plot plan showing the location of all emission units and air pollutant-generating activities. The plot plan must also show the property lines of the air pollution source, the height above grade of each emission release point, and the distance and direction to the nearest residential or commercial property.

(x) Type and quantity of fuels, including the sulfur content of fuels, used on a daily, annual, and maximum hourly basis.

(xi) Type and quantity of raw materials used or final product produced on a daily, annual, and maximum hourly basis.

(xii) Typical operating schedule, including number of hours per day, number of days per week, and number of weeks per year.

(xiii) Estimates (including all calculations for the estimates) of total actual emissions from the air pollution source for the following air pollutants: Particulate matter (PM), PM₁₀, PM_{2.5}, sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO), volatile organic compounds (VOC), lead (Pb) and lead compounds, ammonia (NH₃), fluorides (gaseous and particulate), sulfuric acid mist (H₂SO₄), hydrogen sulfide (H₂S), total reduced sulfur (TRS), and reduced sulfur compounds.

(xiv) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions.

(xv) Global Positioning System (GPS) coordinates taken at the front entrance of the registered

facility.

(xvi) The North American Industry Classification System (NAICS) code for the registered facility.

(xvii) A copy of the most recent fugitive particulate matter survey and current fugitive particulate matter plan as required under § 49.126.

(xviii) Any other information specifically requested by the Regional Administrator.

(4) *Procedure for estimating emissions.* The initial registration and annual registration must include an estimate of actual emissions taking into account equipment, operating conditions, and air pollution control measures. For an existing air pollution source that operated during the calendar year preceding the initial registration or annual registration submittal, the actual emissions are the actual rate of emissions for the preceding calendar year and must be calculated using the actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. For a new air pollution source that is submitting its initial registration, the actual emissions are the estimated actual rate of emissions for the current calendar year. The emission estimates must be based upon actual test data or, in the absence of such data, upon procedures acceptable to the Regional Administrator. Any emission estimates submitted to the Regional Administrator must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

(i) Source-specific emission tests;

(ii) Mass balance calculations;

(iii) Published, verifiable emission factors that are applicable to the source;

(iv) Other engineering calculations; or

(v) Other procedures to estimate emissions specifically approved by the Regional Administrator.

(5) *Report of relocation.* After initial registration, the owner or operator of an air pollution

source must report any relocation of the source via the FORS at least 30 days prior to the relocation of the source within an Indian reservation, or when relocating off of or on to an Indian reservation. The report must update the information required in paragraphs (e)(3)(i) through (v) of this section and, except when relocating to a site off of an Indian reservation, paragraph (e)(3)(viii) of this section and any other information required by paragraph (e)(3) of this section if it will change as a result of the relocation. Submitting a report of relocation does not relieve the owner or operator from the requirement to obtain a permit to construct if the relocation of the air pollution source would be a new source or modification subject to any Federal or Tribal permit to construct rule.

(6) *Report of change of ownership.* After initial registration, the owner or operator of an air pollution source must report any change of ownership via the FORS within 90 days after the change in ownership is effective. The report must update the information required in paragraphs (e)(3)(i) through (v) of this section, and any other information required by paragraph (e)(3) of this section if it would change as a result of the change of ownership.

(7) *Report of closure.* Except for regular seasonal closures, after initial registration, the owner or operator of an air pollution source must submit a report of closure via the FORS within 90 days after the cessation of all operations at the air pollution source. The report must include the information required in paragraph (e)(3)(xiii) of this section through the date of closure.

(8) *Certification of truth, accuracy, and completeness.* All registrations and reports must include a certification signed by the owner or operator as to the truth, accuracy, and completeness of the information. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information are true, accurate, and complete.

(f) *Requirements for part 71 sources.* (1) The owner or operator of a part 71 source must submit an annual registration report that includes the information required by paragraphs (e)(3)(xiii), (xvii) and (e)(4) of this section. This annual registration report must be submitted by

February 15 of each year. The first annual registration report for a part 71 source shall be submitted for calendar year 2006, or for the calendar year that the source became subject to part 71, whichever is later.

(2) The owner or operator of a part 71 source must also submit reports of a change in ownership and closure as provided in paragraphs (e)(6) and (7) of this section.

§ 49.139 Rule for non-Title V operating permits.

(a) *What is the purpose of this section?* This section establishes a permitting program to provide for the establishment of Federally-enforceable requirements for air pollution sources within an Indian reservation.

(b) *Who is affected by this section?* (1) This section applies to:

(i) The owner or operator of any air pollution source who wishes to obtain a Federally-enforceable limitation on the source's actual emissions or potential to emit that cannot be obtained under the Indian Country Minor NSR Rule (§§ 49.151 through 49.173) or the Federal rule for Prevention of Significant Deterioration (40 CFR 52.21);

(ii) Any air pollution source for which the Regional Administrator determines that additional Federally-enforceable requirements are necessary to ensure compliance with the implementation plan;

(iii) Any air pollution source for which the Regional Administrator determines that additional Federally-enforceable requirements are necessary to ensure the attainment and maintenance of any national ambient air quality standard or prevention of significant deterioration increment; or

(iv) Any air pollution source for which the Regional Administrator determines that additional Federally-enforceable requirements are necessary to implement or ensure compliance with any other provisions of the Clean Air Act.

(2) This section does not apply to the owner or operator of an air pollution source who wishes to obtain a Federally-enforceable limitation on the source's potential to emit in order to establish a synthetic minor source for purposes of the applicable prevention of significant deterioration,

nonattainment major new source review or Clean Air Act title V permit programs and/or a synthetic minor source of hazardous air pollutants for purposes of 40 CFR part 63, section 112 of the Clean Air Act or the applicable Clean Air Act title V program. Applications for a synthetic minor source permit must be submitted pursuant to § 49.158.

(c) *What is the process for obtaining an owner-requested operating permit?*(1) The owner or operator of an air pollution source who wishes to obtain a Federally-enforceable limitation on the source's actual emissions or potential to emit under this section must submit an application in writing to the Regional Administrator requesting such limitation and include the following information:

- (i) Name of the air pollution source and the nature of the business.
- (ii) Street address, email address and telephone number of the air pollution source.
- (iii) Name, mailing address, email address and telephone number of the owner or operator.
- (iv) Name, mailing address, email address and telephone number of the local individual responsible for compliance with this section.
- (v) Name, mailing address, email address and telephone number of the individual authorized to receive requests for data and information.
- (vi) For each air pollutant and for all emission units and air pollutant-generating activities to be covered by a limitation:

(A) The proposed limitation and a description of its effect on actual emissions or the potential to emit. Proposed limitations may include, but are not limited to, emission limitations, production limits, operational restrictions, fuel or raw material specifications, and/or requirements for installation, and operation of emission controls. Proposed limitations must have a reasonably short averaging period, taking into consideration the operation of the air pollution source and the methods to be used for demonstrating compliance.

(B) Proposed testing, monitoring, recordkeeping, and reporting requirements to be used to demonstrate and assure compliance with the proposed limitation.

(C) A description of the production processes and a related flow chart.

(D) Identification of emission units and air pollutant-generating activities.

(E) Type and quantity of fuels and/or raw materials used.

(F) Description and estimated efficiency of air pollution control equipment under present or anticipated operating conditions.

(G) Estimates of the current actual emissions and current potential to emit, including all calculations for the estimates.

(H) Estimates of the allowable emissions and/or potential to emit that would result from compliance with the proposed limitation, including all calculations for the estimates.

(vii) Any other information specifically requested by the Regional Administrator.

(2) Estimates of actual emissions must be based upon actual test data, or in the absence of such data, upon procedures acceptable to the Regional Administrator. Any emission estimates submitted to the Regional Administrator must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

(i) Source-specific emission tests;

(ii) Mass balance calculations;

(iii) Published, verifiable emission factors that are applicable to the source;

(iv) Other engineering calculations; or

(v) Other procedures to estimate emissions specifically approved by the Regional Administrator.

(3) All applications for a non-Title V operating permit must include a certification by the owner or operator as to the truth, accuracy, and completeness of the information. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information are true, accurate, and complete.

(4) Within 60 days after receipt of an application, the Regional Administrator will determine

if it contains the information specified in paragraph (c)(1) of this section and if so, will deem it complete for the purpose of preparing a draft non-Title V operating permit. If the Regional Administrator determines that the application is incomplete, it will be returned to the owner or operator along with a description of the necessary information that must be submitted for the application to be deemed complete.

(5) The Regional Administrator will prepare a draft non-Title V operating permit and a draft technical support document that describes the proposed limitation and its effect on the actual emissions and/or potential to emit of the air pollution source or draft decision to deny the permit.

(6) The Regional Administrator will provide a copy of the draft non-Title V operating permit and draft technical support document or the draft decision to deny the permit to the owner or operator of the air pollution source when the draft permit or the draft decision to deny the permit is sent out for public comment.

(d) What is the process that the Regional Administrator will follow to require a non-Title V operating permit? (1) Whenever the Regional Administrator determines that additional Federally-enforceable requirements are necessary to ensure compliance with the implementation plan, to ensure the attainment and maintenance of any national ambient air quality standard or prevention of significant deterioration increment, or to implement or ensure compliance with any other provisions of the Clean Air Act, the owner or operator of the air pollution source will be so notified in writing.

(2) The Regional Administrator may require that the owner or operator provide any information that the Regional Administrator determines is necessary to establish such requirements in a non-Title V operating permit under this section.

(3) The Regional Administrator will prepare a draft non-Title V operating permit and a draft technical support document that describes the reasons and need for the proposed requirements.

(4) The Regional Administrator will provide a copy of the draft non-Title V operating permit and draft technical support document to the owner or operator of the air pollution source when

the draft permit is sent out for public comment.

(e) *What permit information will be publicly available?* With the exception of any confidential information as defined in subpart B of 40 CFR part 2, the Regional Administrator must make available for public inspection the documents listed in paragraphs (c)(1) through (6) or (d)(1) through (4) of this section. The Regional Administrator must make such information available for public inspection at the EPA Region 10 Office and in at least one location in the area affected by the source, such as the Tribal environmental office or a local library.

(f) *How will the public be notified and participate?* (1) Before issuing a permit under this section, the Regional Administrator must prepare a draft permit and provide adequate public notice to ensure that the affected community and the general public have reasonable access to the application and draft permit information, as set out in paragraphs (f)(1)(i) and (ii) of this section. The public notice must provide an opportunity for public comment and notice of a public hearing, if any, on the draft permit.

(i) The Regional Administrator must mail a copy of the notice to the owner or operator of the source, the appropriate Indian governing body and the Tribal, State and local air pollution authorities having jurisdiction adjacent to the area of the Indian reservation potentially affected by the air pollution source.

(ii) Depending on such factors as the nature and size of the source, local air quality considerations and the characteristics of the population in the affected area (e.g., subsistence hunting and fishing or other seasonal cultural practices), the Regional Administrator must use appropriate means of notification, such as those listed in paragraphs (f)(1)(ii)(A) through (E) of this section.

(A) The Regional Administrator may mail or e-mail a copy of the notice to persons on a mailing list developed by the Regional Administrator consisting of those persons who have requested to be placed on such a mailing list.

(B) The Regional Administrator may post the notice on the Region 10 website.

(C) The Regional Administrator may publish the notice in a newspaper of general circulation in the area affected by the source. Where possible, the notice may also be published in a Tribal newspaper or newsletter.

(D) The Regional Administrator may provide copies of the notice for posting at one or more locations in the area affected by the source, such as post offices, trading posts, libraries, Tribal environmental offices, community centers or other gathering places in the community.

(E) The Regional Administrator may employ other means of notification as appropriate.

(2) The notice required pursuant to paragraph (f)(1) of this section must include the following information at a minimum:

(i) Identifying information, including owner or operator's name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.

(ii) The name and address of EPA Region 10 and any delegated agency processing the permit action.

(iii) The purpose for which the permit is being issued, the regulated pollutants covered by the permit, and a description of any proposed limitations on the source.

(iv) Instructions for requesting a public hearing.

(v) The name, address, email address and telephone number of a contact person in EPA Region 10 from whom additional information may be obtained.

(vi) Locations and times of availability of the information (listed in paragraph (e) of this section) for public inspection.

(vii) A statement that any person may submit written comments, a written request for a public hearing or both, on the draft permit action. The Regional Administrator must provide a period of at least 30 days from the date of the public notice for comments and for requests for a public hearing.

(g) *How will the public comment and will there be a public hearing?* (1) Any person may submit written comments on the draft permit and may request a public hearing. These comments

must raise any reasonably ascertainable issue with supporting arguments by the close of the public comment period (including any public hearing). The Regional Administrator must consider all comments in making the final decision. The Regional Administrator must keep a record of the commenters and of the issues raised during the public participation process and such records must be available to the public.

(2) The Regional Administrator must extend the public comment period under paragraph (f) of this section to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(3) A request for a public hearing must be in writing and must state the nature of the issues proposed to be raised at the hearing.

(4) The Regional Administrator must hold a hearing whenever there is, on the basis of requests, a significant degree of public interest in a draft permit. The Regional Administrator may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. The Regional Administrator must provide notice of any public hearing at least 30 days prior to the date of the hearing. Public notice of the hearing may be concurrent with that of the draft permit and the two notices may be combined. Reasonable limits may be set upon the time allowed for oral statements at the hearing.

(5) The Regional Administrator must make a recording or written transcript of any hearing available to the public.

(h) *Can a permit be reopened?* The Regional Administrator may reopen an existing, currently-in-effect permit for cause on its own initiative, such as if it contains a material mistake or fails to assure compliance with applicable requirements. However, except for those permit reopenings that do not increase the emissions limitations in the permit, such as permit reopenings that correct typographical, calculation and other errors, all other permit reopenings shall be carried out after the opportunity of public notice and comment and in accordance with one or more of the public participation requirements under paragraph (f) of this section.

(i) *What is an administrative permit revision?* The following provisions govern administrative permit revisions.

(1) An administrative permit revision is a permit revision that makes any of the following changes:

(i) Corrects typographical errors.

(ii) Identifies a change in the name, address or phone number of any person identified in the permit or provides a similar minor administrative change at the source.

(iii) Requires more frequent monitoring or reporting by the permittee.

(iv) Allows for a change in ownership or operational control of a source where the Regional Administrator determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Regional Administrator.

(v) Incorporates any other type of change that the Regional Administrator has determined to be similar to those in paragraphs (i)(1)(i) through (iv) of this section.

(2) An administrative permit revision is not subject to the permit application, issuance, public participation or administrative and judicial review requirements of this section.

(j) *Can my existing owner-requested permit limits be revised?* Permits with owner-requested limits on the source's potential to emit previously issued under the authority of this section may be revised through an administrative permit revision as provided in paragraph (i) provided the revision qualifies as an administrative permit revision under that paragraph. If you propose a modification, as defined in § 49.152, to your existing source, you must obtain a permit pursuant to § 49.158 prior to beginning actual construction. For all permit revisions that do not arise from a proposed modification and do not qualify as administrative permit revisions, the permit may be revised consistent with, and subject to, the public participation procedures of this section. Such procedures shall only affect those parts of the permit for which revisions are proposed. An application for a permit revision need only include information on the affected permit terms and

emission units to which those terms apply.

(k) How will final action occur and when will the permit become effective? (1) After decision on a permit, the Regional Administrator must notify the permit applicant of the decision, in writing, and if the permit is denied, of the reasons for such denial and the procedures for appeal. The final non-Title V operating permit and final technical support document (including responses to comments) will be sent to the owner or operator of the air pollution source. In addition, the Regional Administrator must provide adequate public notice of the final permit decision to ensure that the affected community, general public and any individuals who commented on the draft permit have reasonable access to the decision and supporting materials according to paragraph (e) of this section and according to one or more of the provisions in paragraphs (f)(1)(ii)(A) through (E) of this section.

(2) A final permit becomes effective 30 days after service of notice of the final permit decision unless a different effective date is specified in the permit.

(l) For how long will the Regional Administrator retain permit-related records? The records, including any required applications for each draft and final permit or application for permit revision, must be kept by the Regional Administrator for not less than 5 years.

(m) What is the administrative record for each final permit? (1) The Regional Administrator must base final permit decisions on an administrative record consisting of:

- (i) The application and any supporting data furnished by the permit applicant;
- (ii) The draft permit and technical support document or notice of intent to deny the application;
- (iii) Other documents in the supporting files for the draft permit that were relied upon in the decision making;
- (iv) All comments received during the public comment period, including any extension or reopening;
- (v) The recording or transcript of any hearing(s) held;

(vi) Any written material submitted at such a hearing;

(vii) Any new materials placed in the record as a result of the Regional Administrator's evaluation of public comments;

(viii) The final permit and final technical support document (including responses to comments); and

(ix) Other documents in the supporting files for the final permit that were relied upon in the decision-making.

(2) The additional documents required under paragraph (m)(1) of this section should be added to the record as soon as possible after their receipt or preparation by the Regional Administrator. The record must be complete on the date the final permit is issued.

(3) Material readily available or published materials that are generally available and that are included in the administrative record under the standards of paragraph (m)(1) of this section need not be physically included in the same file as the rest of the record as long as it is specifically referred to in that file.

(n) *Final agency action.* The final non-Title V operating permit or denial of such permit is a final agency action for purposes of administrative appeal and judicial review.

3. Remove the undesignated center heading immediately following § 49.139 "Federal Implementation Plan for Oil and Natural Gas Production Facilities, Fort Berthold Indian Reservation (Mandan, Hidatsa and Arikara Nations) in EPA Region 8".

4. Add §§ 49.140 through 49.143 to read as follows:

Sec.

* * * * *

49.140 Rule for residential wood burning devices.

49.141 Rule for curtailment of residential wood burning devices for specific areas.

49.142 Rule for small open burning annual permits.

49.143 Permit by rule for small open burns.

* * * * *

§ 49.140 Rule for residential wood burning devices.

(a) *What is the purpose of this section?* This section regulates the installation of residential

wood burning devices and specifies what fuels may be burned in residential wood burning devices within an Indian reservation to control emissions of air pollutants to the atmosphere and ground-level concentrations of PM_{2.5} and PM₁₀.

(b) *Who is affected by this section?* This section applies to any person who owns or operates a residential wood burning device.

(c) *What are the requirements of this section?* (1) After the effective date of the final rule, no new or used residential wood heater, residential central heater, residential forced-air furnace, or residential hydronic heater may be installed to provide heat to a structure unless it has been certified by EPA to meet the applicable PM emission standards in 40 CFR 60.532 or 40 CFR 60.5474 as in effect on or after May 15, 2015, and has affixed to it a permanent label pursuant to 40 CFR 60.536 or 40 CFR 60.5478.

(2) Only the following materials may be burned in a residential wood burning device:

- (i) Seasoned firewood, which is firewood that has a moisture content of 20% or less;
- (ii) Kiln dried or air dried lumber that has not been treated, chemically impregnated, painted or coated;
- (iii) Products manufactured for the purpose of being used as a fuel for a residential wood burning device, such as wood pellets and biomass fire logs intended for burning in a wood stove or fireplace; and
- (iv) Manufactured fire starters and paper sufficient to start a fire.

§ 49.141 Rule for curtailment of residential wood burning devices for specific areas.

(a) *What is the purpose of this section?* This section provides for Stage 1 and Stage 2 bans on the use of residential wood burning devices during periods of elevated PM_{2.5} and PM₁₀ concentrations within specific geographical areas to control emissions of air pollutants to the atmosphere and ground-level concentrations of PM_{2.5} and PM₁₀.

(b) *Who is affected by this section?* This section applies to any person who owns or operates a residential wood burning device in specific geographical areas.

(c) *When and where does this section apply?* This section applies beginning October 1, of the second calendar year following the promulgation of this section into the implementation plan for an Indian reservation in subpart M of this part.

(d) *What are the requirements of this section?* (1) Except for residences that qualify for an exemption under paragraph (d)(3) of this section, the use of residential wood burning devices that have not been certified by EPA under subpart AAA or QQQQ to 40 CFR part 60 are prohibited whenever the Regional Administrator declares a Stage 1 ban. A Stage 1 ban may be declared for a specified geographic area whenever the Regional Administrator determines that air quality levels have exceeded, or are projected to exceed within the next 72 hours, 75% of any 24-hour national ambient air quality standard for particulate matter, that these levels are projected to continue or reoccur over at least the subsequent 24 hours, and that reductions in emissions from uncertified residential wood burning devices would reduce particulate matter concentrations.

(2) Except for residences that qualify for an exemption under paragraph (d)(3) of this section, the use of all residential wood burning devices (whether certified or uncertified) are prohibited whenever the Regional Administrator declares a Stage 2 ban. A Stage 2 ban may be declared for a specified geographic area whenever the Regional Administrator determines that air quality levels have exceeded, or are projected to exceed within the next 72 hours, any 24-hour national ambient air quality standard for particulate matter, that these levels are projected to continue or reoccur over at least the subsequent 24 hours, and that reductions in emissions from residential wood burning devices would reduce particulate matter concentrations.

(3) The requirements of paragraphs (d)(1) and (2) of this section do not apply to:

(i) Residences where residential wood burning devices are the sole source of heat. Sole source of heat means that the residential wood burning device is the only available source of heat for the residence, excluding portable space heaters; or

(ii) Residences where the household income is less than or equal to 1.5 times the Federal poverty guidelines as defined by the U.S. Department of Health and Human Services.

(4) Any person whose residence qualifies for, and is relying on, an exemption under paragraph (d)(3) of this section must complete an exemption form provided by the Regional Administrator and certify as to its truth and accuracy. Such form must be completed, signed and available at the qualifying residence before using the wood burning device during a Stage 1 or Stage 2 burn ban and must be made available for review upon request by the Regional Administrator or authorized representative.

(5) A signed form under paragraph (d)(4) of this section is valid for five years from the date of signature or until the residence no longer qualifies for an exemption under paragraph (d)(3) of this section, whichever occurs first.

§ 49.142 Rule for small open burning annual permits.

(a) *What is the purpose of this section?* This section establishes a permitting program for small open burns within an Indian reservation to control emissions of air pollutants to the atmosphere and ground-level concentrations of PM_{2.5} and PM₁₀.

(b) *Who is affected by this section?* This section applies to the owner and lessee, if any, of the property on which a small open burn is conducted and to any person who conducts a small open burn.

(c) *What is exempted from this section?* The following open burns are exempted from this section:

- (1) Outdoor fires set for cultural or traditional purposes;
- (2) Fires set for cultural or traditional purposes within structures such as smoke houses, sweat houses, or sweat lodges;
- (3) Outdoor cooking fires;
- (4) Fires set for recreational purposes;
- (5) Fires set as part of a firefighting strategy (e.g., back burn, fire break, or safety perimeter burn), if approved by the appropriate fire safety jurisdiction and only under an emergency or incident command situation;

(6) Fires set for the disposal of diseased animals or other material by order of a public health authority;

(7) Open outdoor fires used by qualified personnel to train firefighters in the methods of fire suppression and firefighting techniques conducted pursuant to § 49.131(e)(4);

(8) Open outdoor fires conducted by Tribal governments to dispose of fireworks and associated packaging materials pursuant to § 49.131(e)(5);

(9) Agricultural burning; and

(10) Forestry and silvicultural burning.

(d) *What are the requirements for small open burns under this section?* (1) The owner or lessee of a property must apply for and obtain an annual permit to conduct small open burns on that property.

(2) The date after which a permit is required under this section in order to conduct small open burns is identified in the implementation plan in subpart M of this part for the specific Indian reservation where this section applies.

(3) A person subject to this section must ensure that the person conducting the small open burns is familiar with the requirements of the permit, ensure that the permit is available on the property during the small open burns, conduct the small open burns in accordance with the terms and conditions of the permit, and comply with this section and § 49.131 or the EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, as applicable.

(4) The person conducting the small open burn must check, as specified in the permit, whether burning is allowed for the area on that day and conduct and complete the burn during the hours that burning is allowed on that day.

(5) Nothing in this section exempts or excuses any person from complying with any applicable laws and ordinances of Tribal governments, local fire departments, or other governmental entities.

(e) *How will a person know if burning is allowed on a day?* (1) The Regional Administrator shall identify each day as a “burn day” or a “no burn day” and for a burn day, specify the hours and geographic area for which burning is allowed. When deciding whether to call a burn day, the Regional Administrator will take into consideration relevant factors including, but not limited to, the current and projected air quality conditions, the forecasted meteorological conditions, and other scheduled burning activities in the surrounding area. Where the Regional Administrator determines that open burning can be conducted without causing or contributing to an exceedance of a national ambient air quality standard or, when relevant, without causing any other adverse impact on air quality, a burn day may be called.

(2) The Regional Administrator will publicize whether a day is a “burn day” or a “no burn day” in a pre-recorded phone message, on a website, or through other appropriate means as identified in the small open burning permit.

(f) *Are there additional requirements that must be met?* (1) The owner or lessee of a property who wishes to conduct small open burns on that property must submit an application to the Regional Administrator for small open burning that the applicant expects to conduct during the calendar year. An application must be submitted in writing, on forms provided by the Regional Administrator, and be received by the Regional Administrator at least 1 business day prior to conducting the first small open burn on the property during a calendar year. The forms will require, at a minimum, the following information:

(i) Street address of the property on which the proposed open burning will be conducted, or if there is no street address of the property, the legal description of the property.

(ii) Name, mailing address, email address, and telephone number of the owner and lessee, if any, of the property on which the proposed open burning will be conducted.

(iii) A description of the measures that will be taken to prevent escaped burns, including but not limited to the availability of water.

(iv) Any other information specifically requested by the Regional Administrator.

(2) If the proposed open burning is consistent with this section and § 49.131 or the applicable EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, the Regional Administrator may issue a small open burning permit. The permit will authorize burning consistent with this section and will include any conditions that the Regional Administrator determines are necessary to ensure compliance with this section, § 49.131, or the applicable EPA-approved Tribal open burning rule, and to protect the public health and welfare, including any monitoring, recordkeeping and reporting requirements.

(3) A permit issued under this section expires at the end of the calendar year in which it was issued unless it is revoked prior to that time by the Regional Administrator. The Regional Administrator may revoke a permit issued under this section, after written notice to the holder of the permit, upon finding that the permit must be revoked or revised to ensure compliance with this section, § 49.131 or the applicable EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, or to protect the public health and welfare.

(4) If the owner or lessee of a property changes, a new permit is required in order to conduct small open burns on that property.

§ 49.143 Permit by rule for small open burns.

(a) *What is the purpose of this section?* This section establishes a permit by rule for small open burns within an Indian reservation to control emissions of air pollutants to the atmosphere and ground-level concentrations of PM_{2.5} and PM₁₀.

(b) *Who is affected by this section?* This section applies to the owner and lessee, if any, of the property on which a small open burn is conducted and to any person who conducts a small open burn.

(c) *What is exempted from this section?* The following open burns are exempted from this section:

- (1) Outdoor fires set for cultural or traditional purposes;
- (2) Fires set for cultural or traditional purposes within structures such as smoke houses, sweat houses, or sweat lodges;
- (3) Outdoor cooking fires;
- (4) Fires set for recreational purposes;
- (5) Fires set as part of a firefighting strategy (e.g., back burn, fire break, or safety perimeter burn), if approved by the appropriate fire safety jurisdiction and only under an emergency or incident command situation;
- (6) Fires set for the disposal of diseased animals or other material by order of a public health authority;
- (7) Open outdoor fires used by qualified personnel to train firefighters in the methods of fire suppression and firefighting techniques conducted pursuant to § 49.131(e)(4);
- (8) Open outdoor fires conducted by Tribal governments to dispose of fireworks and associated packaging materials pursuant to § 49.131(e)(5);
- (9) Agricultural burning; and
- (10) Forestry and silvicultural burning.

(d) *What are the requirements for small open burns under this section?* (1) The owner or lessee of a property must apply for and obtain approval of coverage under this section to conduct small open burns on that property.

(2) The date after which approval of coverage is required under this section in order to conduct small open burns is identified in the implementation plan in subpart M of this part for the specific Indian reservation where this section applies.

(3) A person subject to this section must ensure that the person conducting the small open burns is familiar with the requirements of the approval of coverage, ensure that the approval of coverage is available on the property during the small open burns and conduct the small open burns in accordance with this section and § 49.131 or the EPA-approved Tribal open burning

rule as specified in the applicable implementation plan for the reservation in subpart M of this part, as applicable.

(4) The person conducting the small open burn must check, as specified in the approval of coverage, whether burning is allowed for the area on that day and conduct and complete the burn during the hours that burning is allowed on that day.

(5) Nothing in this section exempts or excuses any person from complying with any applicable laws and ordinances of Tribal governments, local fire departments, or other governmental entities.

(e) How will a person know if burning is allowed on a day? (1) The Regional Administrator shall identify each day as a “burn day” or a “no burn day” and for a burn day, specify the hours and geographic area for which burning is allowed. When deciding whether to call a burn day, the Regional Administrator will take into consideration relevant factors including, but not limited to, the current and projected air quality conditions, the forecasted meteorological conditions, and other scheduled burning activities in the surrounding area. Where the Regional Administrator determines that open burning can be conducted without causing or contributing to an exceedance of a national ambient air quality standard or, when relevant, without causing any other adverse impact on air quality, a burn day may be called.

(2) The Regional Administrator will publicize whether a day is a “burn day” or a “no burn day” in a pre-recorded phone message, on a website, or through other appropriate means as identified in the approval of coverage.

(f) Are there additional requirements that must be met? (1) The owner or lessee of a property who wishes to conduct small open burns on that property must submit an application to the Regional Administrator for approval of coverage under this section. An application must be submitted in writing, on forms provided by the Regional Administrator, and be received by the Regional Administrator at least 1 business day prior to conducting the first small open burn on the property. The forms will require, at a minimum, the following information:

(i) Street address of the property on which the proposed open burning will be conducted, or if there is no street address of the property, the legal description of the property.

(ii) Name, mailing address, email address, and telephone number of the owner and lessee, if any, of the property on which the proposed open burning will be conducted.

(iii) A description of the measures that will be taken to prevent escaped burns, including but not limited to the availability of water.

(iv) Any other information specifically requested by the Regional Administrator.

(2) Approval of coverage under this section is effective the day after receipt by the Regional Administrator of an application for coverage unless the Regional Administrator disapproves the application for coverage. The Regional Administrator may disapprove the application for coverage, in writing, if the proposed open burning is found to be inconsistent with this section, § 49.131, or the applicable EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part.

(3) Approval of coverage under this section remains valid for the property for as long as it remains under the control of the owner and lessee who are identified on the application for the approval of coverage, unless the approval is revoked by the Regional Administrator. The Regional Administrator may revoke the approval of coverage under this section, after written notice to the applicant, upon finding that the approval must be revoked to ensure compliance with this section, § 49.131, or the applicable EPA-approved Tribal open burning rule as specified in the applicable implementation plan for the reservation in subpart M of this part, or to protect the public health and welfare.

(4) If the owner or lessee of a property changes, a new application for approval of coverage is required in order to conduct small open burns on that property.

Subpart M—Implementation Plans for Tribes—Region X

5. Revise §§ 49.9861 through 49.10710 to read as follows:

Sec.

Implementation Plan For The Burns Paiute Tribe, Oregon

- 49.9861 Identification of plan.
- 49.9862 Approval status.
- 49.9863 [Reserved]
- 49.9864 [Reserved]
- 49.9865 Classification of regions for episode plans.
- 49.9866 Contents of implementation plan.
- 49.9867 [Reserved]
- 49.9868 Permits to construct.
- 49.9869 Permits to operate.
- 49.9870 Federally-promulgated regulations and Federal implementation plans.
- 49.9871-49.9890 [Reserved]

Implementation Plan For The Confederated Tribes Of The Chehalis Reservation, Washington

- 49.9891 Identification of plan.
- 49.9892 Approval status.
- 49.9893 [Reserved]
- 49.9894 [Reserved]
- 49.9895 Classification of regions for episode plans.
- 49.9896 Contents of implementation plan.
- 49.9897 [Reserved]
- 49.9898 Permits to construct.
- 49.9899 Permits to operate.
- 49.9900 Federally-promulgated regulations and Federal implementation plans.
- 49.9901-49.9920 [Reserved]

Implementation Plan For The Coeur D'alene Tribe, Idaho

- 49.9921 Identification of plan.
- 49.9922 Approval status.
- 49.9923 [Reserved]
- 49.9924 [Reserved]
- 49.9925 Classification of regions for episode plans.
- 49.9926 Contents of implementation plan.
- 49.9927 [Reserved]
- 49.9928 Permits to construct.
- 49.9929 Permits to operate.
- 49.9930 Federally-promulgated regulations and Federal implementation plans.
- 49.9931-49.9950 [Reserved]

Implementation Plan For The Confederated Tribes Of The Colville Reservation, Washington

- 49.9951 Identification of plan.
- 49.9952 Approval status.
- 49.9953 [Reserved]
- 49.9954 [Reserved]

49.9955 Classification of regions for episode plans.
49.9956 Contents of implementation plan.
49.9957 [Reserved]
49.9958 Permits to construct.
49.9959 Permits to operate.
49.9960 Federally-promulgated regulations and Federal implementation plans.
49.9961-49.9980 [Reserved]

Implementation Plan For The Confederated Tribes Of The Coos, Lower Umpqua And Siuslaw Indians, Oregon

49.9981 Identification of plan.
49.9982 Approval status.
49.9983 [Reserved]
49.9984 [Reserved]
49.9985 Classification of regions for episode plans.
49.9986 Contents of implementation plan.
49.9987 [Reserved]
49.9988 Permits to construct.
49.9989 Permits to operate.
49.9990 Federally-promulgated regulations and Federal implementation plans.
49.9991-49.10010 [Reserved]

Implementation Plan For The Coquille Indian Tribe, Oregon

49.10011 Identification of plan.
49.10012 Approval status.
49.10013 [Reserved]
49.10014 [Reserved]
49.10015 Classification of regions for episode plans.
49.10016 Contents of implementation plan.
49.10017 [Reserved]
49.10018 Permits to construct.
49.10019 Permits to operate.
49.10020 Federally-promulgated regulations and Federal implementation plans.
49.10021-49.10040 [Reserved]

Implementation Plan For The Cow Creek Band Of Umpqua Tribe Of Indians, Oregon

49.10041 Identification of plan.
49.10042 Approval status.
49.10043 [Reserved]
49.10044 [Reserved]
49.10045 Classification of regions for episode plans.
49.10046 Contents of implementation plan.
49.10047 [Reserved]
49.10048 Permits to construct.
49.10049 Permits to operate.
49.10050 Federally-promulgated regulations and Federal implementation plans.
49.10051-49.10070 [Reserved]

Implementation Plan For The Cowlitz Indian Tribe, Washington

49.10071 Identification of plan.
49.10072 Approval status.
49.10073 [Reserved]
49.10074 [Reserved]
49.10075 Classification of regions for episode plans.
49.10076 Contents of implementation plan.
49.10077 [Reserved]
49.10078 Permits to construct.
49.10079 Permits to operate.
49.10080 Federally-promulgated regulations and Federal implementation plans.
49.10081-49.10100 [Reserved]

Implementation Plan For The Confederated Tribes Of The Grand Ronde Community Of Oregon

49.10101 Identification of plan.
49.10102 Approval status.
49.10103 [Reserved]
49.10104 [Reserved]
49.10105 Classification of regions for episode plans.
49.10106 Contents of implementation plan.
49.10107 [Reserved]
49.10108 Permits to construct.
49.10109 Permits to operate.
49.10110 Federally-promulgated regulations and Federal implementation plans.
49.10111-49.10130 [Reserved]

Implementation Plan For The Hoh Indian Tribe, Washington

49.10131 Identification of plan.
49.10132 Approval status.
49.10133 [Reserved]
49.10134 [Reserved]
49.10135 Classification of regions for episode plans.
49.10136 Contents of implementation plan.
49.10137 [Reserved]
49.10138 Permits to construct.
49.10139 Permits to operate.
49.10140 Federally-promulgated regulations and Federal implementation plans.
49.10141-49.10160 [Reserved]

Implementation Plan For The Jamestown S'klallam Tribe, Washington

49.10161 Identification of plan.
49.10162 Approval status.
49.10163 [Reserved]
49.10164 [Reserved]
49.10165 Classification of regions for episode plans.
49.10166 Contents of implementation plan.
49.10167 [Reserved]
49.10168 Permits to construct.

49.10169 Permits to operate.
49.10170 Federally-promulgated regulations and Federal implementation plans.
49.10171-49.10190 [Reserved]

Implementation Plan For The Kalispel Indian Community Of The Kalispel Reservation, Washington

49.10191 Identification of plan.
49.10192 Approval status.
49.10193 [Reserved]
49.10194 [Reserved]
49.10195 Classification of regions for episode plans.
49.10196 Contents of implementation plan.
49.10197 [Reserved]
49.10198 Permits to construct.
49.10199 Permits to operate.
49.10200 Federally-promulgated regulations and Federal implementation plans.
49.10201-49.10220 [Reserved]

Implementation Plan For The Klamath Tribes, Oregon

49.10221 Identification of plan.
49.10222 Approval status.
49.10223 [Reserved]
49.10224 [Reserved]
49.10225 Classification of regions for episode plans.
49.10226 Contents of implementation plan.
49.10227 [Reserved]
49.10228 Permits to construct.
49.10229 Permits to operate.
49.10230 Federally-promulgated regulations and Federal implementation plans.
§49.10231-49.10250 [Reserved]

Implementation Plan For The Kootenai Tribe Of Idaho

49.10251 Identification of plan.
49.10252 Approval status.
49.10253 [Reserved]
49.10254 [Reserved]
49.10255 Classification of regions for episode plans.
49.10256 Contents of implementation plan.
49.10257 [Reserved]
49.10258 Permits to construct.
49.10259 Permits to operate.
49.10260 Federally-promulgated regulations and Federal implementation plans.
49.103261-49.10280 [Reserved]

Implementation Plan For The Lower Elwha Tribal Community, Washington

49.10281 Identification of plan.
49.10282 Approval status.
49.10283 [Reserved]

49.10284 [Reserved]
49.10285 Classification of regions for episode plans.
49.10286 Contents of implementation plan.
49.10287 [Reserved]
49.10288 Permits to construct.
49.10289 Permits to operate.
49.10290 Federally-promulgated regulations and Federal implementation plans.
49.10291-49.10310 [Reserved]

Implementation Plan For The Lummi Tribe Of The Lummi Reservation, Washington

49.10311 Identification of plan.
49.10312 Approval status.
49.10313 [Reserved]
49.10314 [Reserved]
49.10315 Classification of regions for episode plans.
49.10316 Contents of implementation plan.
49.10317 [Reserved]
49.10318 Permits to construct.
49.10319 Permits to operate.
49.10320 Federally-promulgated regulations and Federal implementation plans.
49.10321-49.10340 [Reserved]

Implementation Plan For The Makah Indian Tribe Of The Makah Indian Reservation, Washington

49.10341 Identification of plan.
49.10342 Approval status.
49.10343 [Reserved]
49.10344 [Reserved]
49.10345 Classification of regions for episode plans.
49.10346 Contents of implementation plan.
49.10347 [Reserved]
49.10348 Permits to construct.
49.10349 Permits to operate.
49.10350 Federally-promulgated regulations and Federal implementation plans.
49.10351-49.10370 [Reserved]

Implementation Plan For The Muckleshoot Indian Tribe, Washington

49.10371 Identification of plan.
49.10372 Approval status.
49.10373 [Reserved]
49.10374 [Reserved]
49.10375 Classification of regions for episode plans.
49.10376 Contents of implementation plan.
49.10377 [Reserved]
49.10378 Permits to construct.
49.10379 Permits to operate.
49.10380 Federally-promulgated regulations and Federal implementation plans.
49.10381-49.10400 [Reserved]

Implementation Plan For The Nez Perce Tribe, Idaho

- 49.10401 Identification of plan.
- 49.10402 Approval status.
- 49.10403 [Reserved]
- 49.10404 [Reserved]
- 49.10405 Classification of regions for episode plans.
- 49.10406 Contents of implementation plan.
- 49.10407 [Reserved]
- 49.10408 Permits to construct.
- 49.10409 Permits to operate.
- 49.10410 Federally-promulgated regulations and Federal implementation plans.
- 49.10411 Permits for large open burning, agricultural burning, forestry and silvicultural burning, and permit by rule for small open burning.
- 49.10412-49.10430 [Reserved]

Implementation Plan For The Nisqually Indian Tribe, Washington

- 49.10431 Identification of plan.
- 49.10432 Approval status.
- 49.10433 [Reserved]
- 49.10434 [Reserved]
- 49.10435 Classification of regions for episode plans.
- 49.10436 Contents of implementation plan.
- 49.10437 [Reserved]
- 49.10438 Permits to construct.
- 49.10439 Permits to operate.
- 49.10440 Federally-promulgated regulations and Federal implementation plans.
- 49.10441-49.10460 [Reserved]

Implementation Plan For The Nooksack Indian Tribe, Washington

- 49.10461 Identification of plan.
- 49.10463. [Reserved]
- 49.10464 [Reserved]
- 49.10465 Classification of regions for episode plans.
- 49.10466 Contents of implementation plan.
- 49.10467 [Reserved]
- 49.10468 Permits to construct.
- 49.10469 Permits to operate.
- 49.10470 Federally-promulgated regulations and Federal implementation plans.
- 49.10471-49.10490 [Reserved]

Implementation Plan For The Port Gamble S'klallam Tribe, Washington

- 49.10491 Identification of plan.
- 49.10492 Approval status.
- 49.10493 [Reserved]
- 49.10494 [Reserved]
- 49.10495 Classification of regions for episode plans.
- 49.10496 Contents of implementation plan.
- 49.10497 [Reserved]

49.10498 Permits to construct.
49.10499 Permits to operate.
49.10500 Federally-promulgated regulations and Federal implementation plans.
49.10501-49.10520 [Reserved]

Implementation Plan For The Puyallup Tribe Of The Puyallup Reservation, Washington

49.10521 Identification of plan.
49.10522 Approval status.
49.10523 [Reserved]
49.10524 [Reserved]
49.10525 Classification of regions for episode plans.
49.10526 Contents of implementation plan.
49.10527 [Reserved]
49.10528 Permits to construct.
49.10529 Permits to operate.
49.10530 Federally-promulgated regulations and Federal implementation plans.
49.10531-49.10550 [Reserved]

Implementation Plan For The Quileute Tribe Of The Quileute Reservation, Washington

49.10551 Identification of plan.
49.10552 Approval status.
49.10553 [Reserved]
49.10554 [Reserved]
49.10555 Classification of regions for episode plans.
49.10556 Contents of implementation plan.
49.10557 [Reserved]
49.10558 Permits to construct.
49.10559 Permits to operate.
49.10560 Federally-promulgated regulations and Federal implementation plans.
49.10561-49.10580 [Reserved]

Implementation Plan For The Quinault Indian Nation, Washington

49.10581 Identification of plan.
49.10582 Approval status.
49.10583 [Reserved]
49.10584 [Reserved]
49.10585 Classification of regions for episode plans.
49.10586 Contents of implementation plan.
49.10587 [Reserved]
49.10588 Permits to construct.
49.10589 Permits to operate.
49.10590 Federally-promulgated regulations and Federal implementation plans.
49.10591-49.10610 [Reserved]

Implementation Plan For The Samish Indian Nation, Washington

49.10611 Identification of plan.
49.10612 Approval status.
49.10613 [Reserved]

49.10614 [Reserved]
49.10615 Classification of regions for episode plans.
49.10616 Contents of implementation plan.
49.10617 [Reserved]
49.10618 Permits to construct.
49.10619 Permits to operate.
49.10620 Federally-promulgated regulations and Federal implementation plans.
49.10621-49.10640 [Reserved]

Implementation Plan For The Sauk-Suiattle Indian Tribe, Washington

49.10641 Identification of plan.
49.10642 Approval status.
49.10643 [Reserved]
49.10644 [Reserved]
49.10645 Classification of regions for episode plans.
49.10646 Contents of implementation plan.
49.10647 [Reserved]
49.10648 Permits to construct.
49.10649 Permits to operate.
49.10650 Federally-promulgated regulations and Federal implementation plans.49.10651-
49.10670 [Reserved]

Implementation Plan For The Shoalwater Bay Indian Tribe Of The Shoalwater Bay Indian Reservation, Washington

49.10671 Identification of plan.
49.10672 Approval status.
49.10673 [Reserved]
49.10674 [Reserved]
49.10675 Classification of regions for episode plans.
49.10676 Contents of implementation plan.
49.10677 [Reserved]
49.10678 Permits to construct.
49.10679 Permits to operate.
49.10680 Federally-promulgated regulations and Federal implementation plans.
49.10681-49.10700 [Reserved]

Implementation Plan For The Shoshone-Bannock Tribes Of The Fort Hall Reservation, Idaho

49.10701 Identification of plan.
49.10702 Approval status.
49.10703 [Reserved]
49.10704 [Reserved]
49.10705 Classification of regions for episode plans.
49.10706 Contents of implementation plan.
49.10707 [Reserved]
49.10708 Permits to construct.
49.10709 Permits to operate.
49.10710 Federally-promulgated regulations and Federal implementation plans.

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IMPLEMENTATION PLAN FOR THE BURNS PAIUTE TRIBE, OREGON

§ 49.9861 Identification of plan.

This section and §§ 49.9862 through 49.9890 contain the implementation plan for the Burns Paiute Tribe. This plan consists of Federal regulations and measures which apply within the Burns Paiute Reservation.

§ 49.9862 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Burns Paiute Reservation.

§ 49.9863 [Reserved]

§ 49.9864 [Reserved]

§ 49.9865 Classification of regions for episode plans.

The air quality control region which encompasses the Burns Paiute Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	III

§ 49.9866 Contents of implementation plan.

The implementation plan for the Burns Paiute Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.9867 [Reserved]

§ 49.9868 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.9869 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.9870 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Burns Paiute Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.

- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.9871-49.9890 [Reserved]

IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE CHEHALIS RESERVATION,
WASHINGTON

§ 49.9891 Identification of plan.

This section and §§ 49.9892 through 49.9920 contain the implementation plan for the Confederated Tribes of the Chehalis Reservation. This plan consists of Federal regulations and measures which apply within the Chehalis Reservation.

§ 49.9892 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Chehalis Reservation.

§ 49.9893 [Reserved]

§ 49.9894 [Reserved]

§ 49.9895 Classification of regions for episode plans.

The air quality control region which encompasses the Chehalis Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.9896 Contents of implementation plan.

The implementation plan for the Chehalis Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.9897 [Reserved]

§ 49.9898 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.9899 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.9900 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Chehalis Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.9901-49.9920 [Reserved]

IMPLEMENTATION PLAN FOR THE COEUR D'ALENE TRIBE, IDAHO

§ 49.9921 Identification of plan.

This section and §§ 49.9922 through 49.9950 contain the implementation plan for the Coeur D'Alene Tribe. This plan consists of Federal regulations and measures which apply within the

Coeur D’Alene Reservation.

§ 49.9922 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Coeur D’Alene Reservation.

§ 49.9923 [Reserved]

§ 49.9924 [Reserved]

§ 49.9925 Classification of regions for episode plans.

The air quality control region which encompasses the Coeur D’Alene Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	I
Sulfur oxides	II

§ 49.9926 Contents of implementation plan.

The implementation plan for the Coeur D’Alene Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.128 Rule for limiting particulate matter emissions from wood products industry sources.

(f) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(g) Section 49.130 Rule for limiting sulfur in fuels.

(h) Section 49.131 General rule for open burning.

(i) Section 49.135 Rule for emissions detrimental to public health or welfare.

(j) Section 49.137 Rule for air pollution episodes.

(k) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(l) Section 49.139 Rule for non-Title V operating permits.

(m) Section 49.140 Rule for residential wood burning devices.

§ 49.9927 EPA-approved Tribal rules and plans. [Reserved]

§ 49.9928 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.9929 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.9930 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Coeur D'Alene Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.128 Rule for limiting particulate matter emissions from wood products industry sources.

- (f) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (g) Section 49.130 Rule for limiting sulfur in fuels.
- (h) Section 49.131 General rule for open burning.
- (i) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (j) Section 49.137 Rule for air pollution episodes.
- (k) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (l) Section 49.139 Rule for non-Title V operating permits.
- (m) Section 49.140 Rule for residential wood burning devices.

NOTE 1 TO § 49.9930: EPA entered into a Partial Delegation of Administrative Authority Agreement with the Coeur D’Alene Tribe on August 26, 2008 for the rules listed in paragraphs (b), (h), and (j) of this section.

§§ 49.9931-49.9950 [Reserved]

**IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION,
WASHINGTON**

§ 49.9951 Identification of plan.

This section and §§ 49.9952 through 49.9980 contain the implementation plan for the Confederated Tribes of the Colville Reservation. This plan consists of Federal regulations and measures which apply within the Colville Reservation.

§ 49.9952 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Colville Reservation.

§ 49.9953 [Reserved]

§ 49.9954 [Reserved]

§ 49.9955 Classification of regions for episode plans.

The air quality control region which encompasses the Colville Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	III

§ 49.9956 Contents of implementation plan.

The implementation plan for the Colville Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.127 Rule for woodwaste burners.
- (f) Section 49.128 Rule for limiting particulate matter emissions from wood products industry sources.
- (g) Section 49.129 Rule for limiting emissions of sulfur dioxides.
- (h) Section 49.130 Rule for limiting sulfur in fuels.
- (i) Section 49.131 General rule for open burning.
- (j) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (k) Section 49.137 Rule for air pollution episodes.
- (l) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(m) Section 49.139 Rule for non-Title V operating permits.

(n) Section 49.140 Rule for residential wood burning devices.

(o) Section 49.141 Rule for curtailment of residential wood burning devices for specific areas.

§ 49.9957 [Reserved]

§ 49.9958 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.9959 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.9960 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Colville Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.127 Rule for woodwaste burners.

(f) Section 49.128 Rule for limiting particulate matter emissions from wood products industry sources.

(g) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(h) Section 49.130 Rule for limiting sulfur in fuels.

(i) Section 49.131 General rule for open burning.

(j) Section 49.135 Rule for emissions detrimental to public health or welfare.

(k) Section 49.137 Rule for air pollution episodes.

(l) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(m) Section 49.139 Rule for non-Title V operating permits.

(n) Section 49.140 Rule for residential wood burning devices.

(o) Section 49.141 Rule for curtailment of residential wood burning devices for specific areas.

NOTE 1 TO § 49.9960: The EPA entered into a Partial Delegation of Administrative Authority Agreement with the Confederated Tribes of the Colville Reservation on October 26, 2015, for the rules listed in paragraphs (b), (i), and (k) of this section.

§§ 49.9961-49.9980 [Reserved]

**IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE COOS, LOWER UMPQUA
AND SIUSLAW INDIANS, OREGON**

§ 49.9981 Identification of plan.

This section and §§ 49.9982 through 49.10010 contain the implementation plan for the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians. This plan consists of Federal regulations and measures which apply within the Coos, Lower Umpqua and Siuslaw Reservation.

§ 49.9982 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Coos, Lower Umpqua and Siuslaw Reservation.

§ 49.9983 [Reserved]

§ 49.9984 [Reserved]

§ 49.9985 Classification of regions for episode plans.

The air quality control region which encompasses the Coos, Lower Umpqua and Siuslaw Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III

Pollutant	Classification
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	III

§ 49.9986 Contents of implementation plan.

The implementation plan for the Coos, Lower Umpqua and Siuslaw Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.9987 [Reserved]

§ 49.9988 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.9989 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.9990 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Coos, Lower Umpqua and Siuslaw Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.9991-49.10010 [Reserved]

IMPLEMENTATION PLAN FOR THE COQUILLE INDIAN TRIBE, OREGON

§ 49.10011 Identification of plan.

This section and §§ 49.10012 through 49.10040 contain the implementation plan for the Coquille Indian Tribe. This plan consists of Federal regulations and measures which apply within the Coquille Reservation.

§ 49.10012 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for

the Coquille Reservation.

§ 49.10013 [Reserved]

§ 49.10014 [Reserved]

§ 49.10015 Classification of regions for episode plans.

The air quality control region which encompasses the Coquille Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	III

§ 49.10016 Contents of implementation plan.

The implementation plan for the Coquille Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§ 49.10017 [Reserved]

§ 49.10018 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to 40 CFR 52.21 and §§ 49.151 through 49.173, as applicable.

§ 49.10019 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10020 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Coquille Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10021-49.10040 [Reserved]

**IMPLEMENTATION PLAN FOR THE COW CREEK BAND OF UMPQUA TRIBE OF INDIANS,
OREGON**

§ 49.10041 Identification of plan.

This section and §§ 49.10042 through 49.10070 contain the implementation plan for the Cow Creek Band of Umpqua Tribe of Indians. This plan consists of Federal regulations and measures which apply within the Cow Creek Umpqua Reservation.

§ 49.10042 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Cow Creek Umpqua Reservation.

§ 49.10043 [Reserved]

§ 49.10044 [Reserved]

§ 49.10045 Classification of regions for episode plans.

The air quality control region which encompasses the Cow Creek Umpqua Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	III

§ 49.10046 Contents of implementation plan.

The implementation plan for the Cow Creek Umpqua Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10047 [Reserved]

§ 49.10048 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10049 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10050 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Cow Creek Umpqua Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.

- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10051-49.10070 [Reserved]

IMPLEMENTATION PLAN FOR THE COWLITZ INDIAN TRIBE, WASHINGTON

§ 49.10071 Identification of plan.

This section and §§ 49.10072 through 49.10100 contain the implementation plan for the Cowlitz Indian Tribe. This plan consists of Federal regulations and measures which apply within the Cowlitz Indian Reservation.

§ 49.10072 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Cowlitz Indian Reservation.

§ 49.10073 [Reserved]

§ 49.10074 [Reserved]

§ 49.10075 Classification of regions for episode plans.

The air quality control region which encompasses the Cowlitz Indian Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	I
Sulfur oxides	IA

§ 49.10076 Contents of implementation plan.

The implementation plan for the Cowlitz Indian Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10077 EPA-approved Tribal rules and plans. [Reserved]

§ 49.10078 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10079 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10080 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Cowlitz Indian Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10081-49.10100 [Reserved]

IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON

§ 49.10101 Identification of plan.

This section and §§ 49.10102 through 49.10130 contain the implementation plan for the

Confederated Tribes of the Grand Ronde Community. This plan consists of Federal regulations and measures which apply within the Grand Ronde Reservation.

§ 49.10102 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Grand Ronde Reservation.

§ 49.10103 [Reserved]

§ 49.10104 [Reserved]

§ 49.10105 Classification of regions for episode plans.

The air quality control region which encompasses the Grand Ronde Reservation:

Pollutant	Classification
Carbon monoxide	I
Nitrogen dioxide	III
Ozone	I
Particulate matter (PM10)	I
Sulfur oxides	IA

§ 49.10106 Contents of implementation plan.

The implementation plan for the Grand Ronde Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10107 [Reserved]

§ 49.10108 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10109 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10110 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Grand Ronde Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10111-49.10130 [Reserved]

IMPLEMENTATION PLAN FOR THE HOH INDIAN TRIBE, WASHINGTON

§ 49.10131 Identification of plan.

This section and §§ 49.10132 through 49.10160 contain the implementation plan for the Hoh Indian Tribe. This plan consists of Federal regulations and measures which apply within the Hoh Indian Reservation.

§ 49.10132 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Hoh Indian Reservation.

§ 49.10133 [Reserved]

§ 49.10134 [Reserved]

§ 49.10135 Classification of regions for episode plans.

The air quality control region which encompasses the Hoh Indian Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II

Pollutant	Classification
Sulfur oxides	II

§ 49.10136 Contents of implementation plan.

The implementation plan for the Hoh Indian Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10137 [Reserved]

§ 49.10138 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10139 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10140 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Hoh Indian Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10141-49.10160 [Reserved]

IMPLEMENTATION PLAN FOR THE JAMESTOWN S'KLALLAM TRIBE, WASHINGTON

§ 49.10161 Identification of plan.

This section and §§ 49.10162 through 49.10190 contain the implementation plan for the Jamestown S'Klallam Tribe. This plan consists of Federal regulations and measures which apply within the Jamestown S'Klallam Reservation.

§ 49.10162 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Jamestown S'Klallam Reservation.

§ 49.10163 [Reserved]

§ 49.10164 [Reserved]

§ 49.10165 Classification of regions for episode plans.

The air quality control region which encompasses the Jamestown S’Klallam Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10166 Contents of implementation plan.

The implementation plan for the Jamestown S’Klallam Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§ 49.10167 [Reserved]

§ 49.10168 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10169 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10170 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Jamestown S’Klallam Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10171-49.10190 [Reserved]

RESERVATION, WASHINGTON

§ 49.10191 Identification of plan.

This section and §§ 49.1019192 through 49.10220 contain the implementation plan for the Kalispel Indian Community. This plan consists of Federal regulations and measures which apply within the Kalispel Reservation.

§ 49.10192 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Kalispel Reservation.

§ 49.10193 [Reserved]

§ 49.10194 [Reserved]

§ 49.10195 Classification of regions for episode plans.

The air quality control region which encompasses the Kalispel Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	III

§ 49.10196 Contents of implementation plan.

The implementation plan for the Kalispel Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.

- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10197 [Reserved]

§ 49.10198 Permits to construct.

(a) Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

(b) In accordance with section 164 of the Clean Air Act and the provisions of 40 CFR 52.21(g), the original Kalispel Reservation, as established by Executive Order No. 1904, signed by President Woodrow Wilson on March 23, 1914, is designated as a Class I area for the purposes of prevention of significant deterioration of air quality.

§ 49.10199 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10200 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Kalispel Reservation:

- (a) Section 49.123 General provisions.

- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10201-49.10220 [Reserved]

IMPLEMENTATION PLAN FOR THE KLAMATH TRIBES, OREGON

§ 49.10221 Identification of plan.

This section and §§ 49.10222 through 49.10250 contain the implementation plan for the Klamath Tribes. This plan consists of Federal regulations and measures which apply within the Klamath Reservation.

§ 49.10222 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Klamath Reservation.

§ 49.10223 [Reserved]

§ 49.10224 [Reserved]

§ 49.10225 Classification of regions for episode plans.

The air quality control region which encompasses the Klamath Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	III

§ 49.10226 Contents of implementation plan.

The implementation plan for the Klamath Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10227 [Reserved]

§ 49.10228 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10229 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10230 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Klamath Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10231-49.10250 [Reserved]

IMPLEMENTATION PLAN FOR THE KOOTENAI TRIBE OF IDAHO

§ 49.10251 Identification of plan.

This section and §§ 49.10252 through 49.10280 contain the implementation plan for the Kootenai Tribe of Idaho. This plan consists of Federal regulations and measures which apply

within the Kootenai Reservation.

§ 49.10252 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Kootenai Reservation.

§ 49.10253 [Reserved]

§ 49.10254 [Reserved]

§ 49.10255 Classification of regions for episode plans.

The air quality control region which encompasses the Kootenai Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	I
Sulfur oxides	III

§ 49.10256 Contents of implementation plan.

The implementation plan for the Kootenai Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10257 [Reserved]

§ 49.10258 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10259 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10260 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Kootenai Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.103261-49.10280 [Reserved]

IMPLEMENTATION PLAN FOR THE LOWER ELWHA TRIBAL COMMUNITY, WASHINGTON

§ 49.10281 Identification of plan.

This section and §§ 49.10282 through 49.10310 contain the implementation plan for the Lower Elwha Tribal Community. This plan consists of Federal regulations and measures which apply within the Lower Elwha Reservation.

§ 49.10282 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Lower Elwha Reservation.

§ 49.10283 [Reserved]

§ 49.10284 [Reserved]

§ 49.10285 Classification of regions for episode plans.

The air quality control region which encompasses the Lower Elwha Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II

Pollutant	Classification
Sulfur oxides	II

§ 49.10286 Contents of implementation plan.

The implementation plan for the Lower Elwha Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10287 [Reserved]

§ 49.10288 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10289 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10290 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Lower Elwha Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10291-49.10310 [Reserved]

**IMPLEMENTATION PLAN FOR THE LUMMI TRIBE OF THE LUMMI RESERVATION,
WASHINGTON**

§ 49.10311 Identification of plan.

This section and §§ 49.10312 through 49.10340 contain the implementation plan for the Lummi Tribe of the Lummi Reservation. This plan consists of Federal regulations and measures which apply within the Lummi Reservation.

§ 49.10312 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Lummi Reservation.

§ 49.10313 [Reserved]

§ 49.10314 [Reserved]

§ 49.10315 Classification of regions for episode plans.

The air quality control region which encompasses the Lummi Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10316 Contents of implementation plan.

The implementation plan for the Lummi Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of

emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§ 49.10317 [Reserved]

§ 49.10318 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10319 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10320 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Lummi Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10321-49.10340 [Reserved]

IMPLEMENTATION PLAN FOR THE MAKAH INDIAN TRIBE OF THE MAKAH INDIAN

RESERVATION, WASHINGTON

§ 49.10341 Identification of plan.

This section and §§ 49.10342 through 49.10370 contain the implementation plan for the Makah Indian Tribe. This plan consists of Federal regulations and measures which apply within the Makah Indian Reservation.

§ 49.10342 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Makah Indian Reservation.

§ 49.10343 [Reserved]

§ 49.10344 [Reserved]

§ 49.10345 Classification of regions for episode plans.

The air quality control region which encompasses the Makah Indian Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10346 Contents of implementation plan.

The implementation plan for the Makah Indian Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10347 [Reserved]

§ 49.10348 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10349 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10350 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Makah Indian Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10351-49.10370 [Reserved]

IMPLEMENTATION PLAN FOR THE MUCKLESHOOT INDIAN TRIBE, WASHINGTON

§ 49.10371 Identification of plan.

This section and §§ 49.10372 through 49.10400 contain the implementation plan for the Muckleshoot Indian Tribe. This plan consists of Federal regulations and measures which apply within the Muckleshoot Reservation.

§ 49.10372 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Muckleshoot Reservation.

§ 49.10373 [Reserved]

§ 49.10374 [Reserved]

§ 49.10375 Classification of regions for episode plans.

The air quality control region which encompasses the Muckleshoot Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III

Pollutant	Classification
Nitrogen dioxide	III
Ozone	I
Particulate matter (PM10)	I
Sulfur oxides	IA

§ 49.10376 Contents of implementation plan.

The implementation plan for the Muckleshoot Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10377 [Reserved]

§ 49.10378 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing

stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10379 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10380 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Muckleshoot Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10381-49.10400 [Reserved]

IMPLEMENTATION PLAN FOR THE NEZ PERCE TRIBE, IDAHO

§ 49.10401 Identification of plan.

This section and §§ 49.10402 through 49.10430 contain the implementation plan for the Nez Perce Tribe. This plan consists of Federal regulations and measures which apply within the Nez Perce Reservation, as described in the 1863 Nez Perce Treaty.

§ 49.10402 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Nez Perce Reservation.

§ 49.10403 [Reserved]

§ 49.10404 [Reserved]

§ 49.10405 Classification of regions for episode plans.

The air quality control region which encompasses the Nez Perce Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	I
Sulfur oxides	III

§ 49.10406 Contents of implementation plan.

The implementation plan for the Nez Perce Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.127 Rule for woodwaste burners.
- (f) Section 49.128 Rule for limiting particulate matter emissions from wood products industry sources.

- (g) Section 49.129 Rule for limiting emissions of sulfur dioxides.
- (h) Section 49.130 Rule for limiting sulfur in fuels.
- (i) Section 49.131 General rule for open burning.
- (j) Section 49.132 Rule for large open burning permits.
- (k) Section 49.133 Rule for agricultural burning permits.
- (l) Section 49.134 Rule for forestry and silvicultural burning permits.
- (m) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (n) Section 49.137 Rule for air pollution episodes.
- (o) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (p) Section 49.139 Rule for non-Title V operating permits.
- (q) Section 49.140 Rule for residential wood burning devices.
- (r) Section 49.141 Rule for curtailment of residential wood burning devices for specific areas.
- (s) Section 49.143 Permit by rule for small open burning.

§ 49.10407 [Reserved]

§ 49.10408 Permits to construct. Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10409 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10410 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Nez Perce Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.

- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.127 Rule for woodwaste burners.
- (f) Section 49.128 Rule for limiting particulate matter emissions from wood products industry sources.
- (g) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (h) Section 49.130 Rule for limiting sulfur in fuels.
- (i) Section 49.131 General rule for open burning.
- (j) Section 49.132 Rule for large open burning permits.
- (k) Section 49.133 Rule for agricultural burning permits.
- (l) Section 49.134 Rule for forestry and silvicultural burning permits.
- (m) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (n) Section 49.137 Rule for air pollution episodes.
- (o) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (p) Section 49.139 Rule for non-Title V operating permits.
- (q) Section 49.140 Rule for residential wood burning devices.
- (r) Section 49.141 Rule for curtailment of residential wood burning devices for specific areas.
- (s) Section 49.143 Permit by rule for small open burning.

NOTE 1 TO § 49.10410: EPA entered into a Partial Delegation of Administrative Authority Agreement with the Nez Perce Tribe on June 27, 2005 for the rules listed in paragraphs (b), (i), (j), (k), (l), and (n) of this section.

§ 49.10411 Permits for large open burning, agricultural burning, forestry and silvicultural burning, and permit by rule for small open burning.

- (a) From June 7, 2005 through December 31, 2023, small open burns and large open burns are subject to the permitting requirements of § 49.132.
- (b) Beginning January 1, 2024, large open burns are subject to the permitting requirements of

§ 49.132.

(c) Beginning June 7, 2005, agricultural burns are subject to the permitting requirements of § 49.133.

(d) Beginning June 7, 2005, forestry and silvicultural burns are subject to the permitting requirements of § 49.134.

(e) Beginning January 1, 2024, small open burns are subject to the permitting requirements of § 49.143.

§§ 49.10412-49.10430 [Reserved]

IMPLEMENTATION PLAN FOR THE NISQUALLY INDIAN TRIBE, WASHINGTON

§ 49.10431 Identification of plan.

This section and §§ 49.10432 through 49.10460 contain the implementation plan for the Nisqually Indian Tribe. This plan consists of Federal regulations and measures which apply within the Nisqually Reservation.

§ 49.10432 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Nisqually Reservation.

§ 49.10433 [Reserved]

§ 49.10434 [Reserved]

§ 49.10435 Classification of regions for episode plans.

The air quality control region which encompasses the Nisqually Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III

Pollutant	Classification
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10436 Contents of implementation plan.

The implementation plan for the Nisqually Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10437 [Reserved]

§ 49.10438 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10439 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10440 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Nisqually Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10441-49.10460 [Reserved]

IMPLEMENTATION PLAN FOR THE NOOKSACK INDIAN TRIBE, WASHINGTON

§ 49.10461 Identification of plan.

This section and §§ 49.10462 through 49.10490 contain the implementation plan for the Nooksack Indian Tribe. This plan consists of Federal regulations and measures which apply within the Reservation of the Nooksack Indian Tribe.

§ 49.10462 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for

the Reservation of the Nooksack Indian Tribe.

§ 49.10463 [Reserved]

§ 49.10464 [Reserved]

§ 49.10465 Classification of regions for episode plans.

The air quality control region which encompasses the Reservation of the Nooksack Indian Tribe is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10466 Contents of implementation plan.

The implementation plan for the Reservation of the Nooksack Indian Tribe consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§ 49.10467 [Reserved]

§ 49.10468 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, 40 CFR 52.21, as applicable.

§ 49.10469 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10470 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Reservation of the Nooksack Indian Tribe:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10471-49.10490 [Reserved]

IMPLEMENTATION PLAN FOR THE PORT GAMBLE S’KLALLAM TRIBE, WASHINGTON

§ 49.10491 Identification of plan.

This section and §§ 49.10492 through 49.10520 contain the implementation plan for the Port Gamble S’Klallam Tribe. This plan consists of Federal regulations and measures which apply within the Port Gamble S’Klallam Reservation.

§ 49.10492 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Port Gamble S’Klallam Reservation.

§ 49.10493 [Reserved]

§ 49.10494 [Reserved]

§ 49.10495 Classification of regions for episode plans.

The air quality control region which encompasses the Port Gamble S’Klallam Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	I
Particulate matter (PM10)	I
Sulfur oxides	IA

§ 49.10496 Contents of implementation plan.

The implementation plan for the Port Gamble S’Klallam Reservation consists of the following

rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10497 EPA-approved Tribal rules and plans. [Reserved]

§ 49.10498 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10499 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10500 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Port Gamble S'Klallam Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.

- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10501-49.10520 [Reserved]

**IMPLEMENTATION PLAN FOR THE PUYALLUP TRIBE OF THE PUYALLUP RESERVATION,
WASHINGTON**

§ 49.10521 Identification of plan.

This section and §§ 49.10522 through 49.10550 contain the implementation plan for the Puyallup Tribe of the Puyallup Reservation. This plan consists of Federal regulations and measures which apply to trust and restricted lands within the 1873 Survey Area of the Puyallup Reservation (the Puyallup Reservation), consistent with the Puyallup Tribe of Indians Land Claims Settlement Act, ratified by Congress in 1989 (25 U.S.C. 1773).

§ 49.10522 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the lands in trust that are within the Puyallup Reservation.

§ 49.10523 [Reserved]

§ 49.10524 [Reserved]

§ 49.10525 Classification of regions for episode plans.

The air quality control region which encompasses the lands in trust that are within the

Puyallup Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	I
Particulate matter (PM10)	I
Sulfur oxides	IA

§ 49.10526 Contents of implementation plan.

The implementation plan for the lands in trust that are within the Puyallup Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10527 [Reserved]

§ 49.10528 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10529 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10530 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the lands in trust that are within the Puyallup Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10531-49.10550 [Reserved]

IMPLEMENTATION PLAN FOR THE QUILEUTE TRIBE OF THE QUILEUTE RESERVATION,

WASHINGTON

§ 49.10551 Identification of plan.

This section and §§ 49.10552 through 49.10580 contain the implementation plan for the Quileute Tribe. This plan consists of Federal regulations and measures which apply within the Quileute Reservation.

§ 49.10552 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Quileute Reservation.

§ 49.10553 [Reserved]

§ 49.10554 [Reserved]

§ 49.10555 Classification of regions for episode plans.

The air quality control region which encompasses the Quileute Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10556 Contents of implementation plan.

The implementation plan for the Quileute Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.

- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10557 [Reserved]

§ 49.10558 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10559 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10560 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Quileute Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10561-49.10580 [Reserved]

IMPLEMENTATION PLAN FOR THE QUINULT INDIAN NATION, WASHINGTON

§ 49.10581 Identification of plan.

This section and §§ 49.10582 through 49.10610 contain the implementation plan for the Quinault Indian Nation. This plan consists of Federal regulations and measures which apply within the Quinault Indian Reservation.

§ 49.10582 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Quinault Indian Reservation.

§ 49.10583 [Reserved]

§ 49.10584 [Reserved]

§ 49.10585 Classification of regions for episode plans.

The air quality control region which encompasses the Quinault Indian Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III

Pollutant	Classification
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10586 Contents of implementation plan.

The implementation plan for the Quinault Indian Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10587 [Reserved]

§ 49.10588 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10589 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10590 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Quinault Indian Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

NOTE 1 TO § 49.10590: EPA entered into a Partial Delegation of Administrative Authority Agreement with the Quinault Indian Nation on October 4, 2007 for the rules listed in paragraphs (b), (g), and (i) of this section.

§§ 49.10591-49.10610 [Reserved]

IMPLEMENTATION PLAN FOR THE SAMISH INDIAN NATION, WASHINGTON

§ 49.10611 Identification of plan.

This section and §§ 49.10612 through 49.10640 contain the implementation plan for the Samish Indian Nation. This plan consists of Federal regulations and measures which apply within the Samish Indian Nation Reservation.

Note 1 to § 49.10611: As of [DATE OF PUBLICATION OF THE FINAL RULE], the Samish Indian Nation Reservation is comprised only of lands held in trust for the Samish Indian Nation.

§ 49.10612 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the lands held in trust for the Samish Indian Nation Reservation.

§ 49.10613 [Reserved]

§ 49.10614 [Reserved]

§ 49.10615 Classification of regions for episode plans.

The air quality control region which encompasses the lands held in trust for the Samish Indian Nation Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10616 Contents of implementation plan.

The implementation plan for the lands held in trust for the Samish Indian Nation Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10617 [Reserved]

§ 49.10618 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10619 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10620 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the lands held in trust for the Samish Indian Nation Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.

- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10621-49.10640 [Reserved]

IMPLEMENTATION PLAN FOR THE SAUK-SUIATTLE INDIAN TRIBE, WASHINGTON

§ 49.10641 Identification of plan.

This section and §§ 49.10642 through 49.10670 contain the implementation plan for the Sauk-Suiattle Indian Tribe. This plan consists of Federal regulations and measures which apply within the Reservation of the Sauk-Suiattle Indian Tribe.

§ 49.10642 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Sauk-Suiattle Indian Tribe.

§ 49.10643 [Reserved]

§ 49.10644 [Reserved]

§ 49.10645 Classification of regions for episode plans.

The air quality control region which encompasses the Reservation of the Sauk-Suiattle Indian Tribe is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	I
Particulate matter (PM10)	I
Sulfur oxides	IA

§ 49.10646 Contents of implementation plan.

The implementation plan for the Reservation of the Sauk-Suiattle Indian Tribe consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10647 [Reserved]

§ 49.10648 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10649 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10650 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Reservation of the Sauk-Suiattle Indian Tribe:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10651-49.10670 [Reserved]

IMPLEMENTATION PLAN FOR THE SHOALWATER BAY INDIAN TRIBE OF THE SHOALWATER BAY INDIAN RESERVATION, WASHINGTON

§ 49.10671 Identification of plan.

This section and §§ 49.10672 through 49.10700 contain the implementation plan for the

Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation. This plan consists of Federal regulations and measures which apply within the Shoalwater Bay Indian Reservation.

§ 49.10672 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Shoalwater Bay Indian Reservation.

§ 49.10673 [Reserved]

§ 49.10674 [Reserved]

§ 49.10675 Classification of regions for episode plans.

The air quality control region which encompasses the Shoalwater Bay Indian Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10676 Contents of implementation plan.

The implementation plan for the Shoalwater Bay Indian Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10677 [Reserved]

§ 49.10678 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.2, as applicable.

§ 49.10679 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10680 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Shoalwater Bay Indian Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10681-49.10700 [Reserved]

IMPLEMENTATION PLAN FOR THE SHOSHONE-BANNOCK TRIBES OF THE FORT HALL

RESERVATION, IDAHO

§ 49.10701 Identification of plan.

This section and §§ 49.10702 through 49.10730 contain the implementation plan for the Shoshone-Bannock Tribes of the Fort Hall Reservation. This plan consists of Federal regulations and measures which apply within the Fort Hall Reservation.

§ 49.10702 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Fort Hall Reservation.

§ 49.10703 [Reserved]

§ 49.10704 [Reserved]

§ 49.10705 Classification of regions for episode plans.

The air quality control region which encompasses the Fort Hall Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III

Pollutant	Classification
Particulate matter (PM10)	I
Sulfur oxides	II

§ 49.10706 Contents of implementation plan.

The implementation plan for the Fort Hall Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.
- (m) Section 49.10711 Federal Implementation Plan for the Astaris-Idaho LLC Facility (formerly owned by FMC Corporation) in the Fort Hall PM-10 Nonattainment Area.

§ 49.10707 [Reserved]

§ 49.10708 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing

stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10709 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10710 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Fort Hall Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.
- (m) Section 49.10711 Federal Implementation Plan for the Astaris-Idaho LLC Facility (formerly owned by FMC Corporation) in the Fort Hall PM-10 Nonattainment Area.

6. Revise §§ 49.10731 through 49.10956 to read as follows:

Sec.

* * * * *

Implementation Plan For The Confederated Tribes Of Siletz Indians Of Oregon

49.10731 Identification of plan.

49.10732 Approval status.

49.10733 [Reserved]
49.10734 [Reserved]
49.10735 Classification of regions for episode plans.
49.10736 Contents of implementation plan.
49.10737 [Reserved]
49.10738 Permits to construct.
49.10739 Permits to operate.
49.10740 Federally-promulgated regulations and Federal implementation plans.
49.10741-49.10760 [Reserved]

Implementation Plan For The Skokomish Indian Tribe, Washington

49.10761 Identification of plan.
49.10762 Approval status.
49.10763 [Reserved]
49.10764 [Reserved]
49.10765 Classification of regions for episode plans.
49.10766 Contents of implementation plan.
49.10767 [Reserved]
49.10768 Permits to construct.
49.10769 Permits to operate.
49.10770 Federally-promulgated regulations and Federal implementation plans.
49.10771-49.10790 [Reserved]

Implementation Plan For The Snoqualmie Indian Tribe, Washington

49.10791 Identification of plan.
49.10792 Approval status.
49.10793 [Reserved]
49.10794 [Reserved]
49.10795 Classification of regions for episode plans.
49.10796 Contents of implementation plan.
49.10797 [Reserved]
49.10798 Permits to construct.
49.10799 Permits to operate.
49.10800 Federally-promulgated regulations and Federal implementation plans.
49.10801-49.10820 [Reserved]

Implementation Plan For The Spokane Tribe Of The Spokane Reservation, Washington

49.10821 Identification of plan.
49.10822 Approval status.
49.10823 [Reserved]
49.10824 [Reserved]
49.10825 Classification of regions for episode plans.
49.10826 Contents of implementation plan.
49.10827 [Reserved]
49.10828 Permits to construct.
49.10829 Permits to operate.
49.10830 Federally-promulgated regulations and Federal implementation plans.
49.10831-49.10850 [Reserved]

Implementation Plan For The Squaxin Island Tribe Of The Squaxin Island Reservation, Washington

- 49.10851 Identification of plan.
- 49.10852 Approval status.
- 49.10853 [Reserved]
- 49.10854 [Reserved]
- 49.10855 Classification of regions for episode plans.
- 49.10856 Contents of implementation plan.
- 49.10857 [Reserved]
- 49.10858 Permits to construct.
- 49.10859 Permits to operate.
- 49.10860 Federally-promulgated regulations and Federal implementation plans.
- 49.10861-49.10880 [Reserved]

Implementation Plan For The Stillaguamish Tribe Of Indians Of Washington

- 49.10881 Identification of plan.
- 49.10882 Approval status.
- 49.10883 [Reserved]
- 49.10884 [Reserved]
- 49.10885 Classification of regions for episode plans.
- 49.10886 Contents of implementation plan.
- 49.10887 [Reserved]
- 49.10888 Permits to construct.
- 49.10889 Permits to operate.
- 49.10890 Federally-promulgated regulations and Federal implementation plans.
- 49.10891-49.10920 [Reserved]

Implementation Plan For The Suquamish Indian Tribe Of The Port Madison Reservation, Washington

- 49.10921 Identification of plan.
- 49.10922 Approval status.
- 49.10923 [Reserved]
- 49.10924 [Reserved]
- 49.10925 Classification of regions for episode plans.
- 49.10926 Contents of implementation plan.
- 49.10927 [Reserved]
- 49.10928 Permits to construct.
- 49.10929 Permits to operate.
- 49.10930 Federally-promulgated regulations and Federal implementation plans.
- 49.10931-49.10950 [Reserved]

Implementation Plan For The Swinomish Indian Tribal Community, Washington

- 49.10951 Identification of plan.
- 49.10952 Approval status.
- 49.10953 [Reserved]
- 49.10954 [Reserved]
- 49.10955 Classification of regions for episode plans.
- 49.10956 Contents of implementation plan.

IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON

§ 49.10731 Identification of plan.

This section and §§ 49.10732 through 49.10760 contain the implementation plan for the Confederated Tribes of Siletz Indians. This plan consists of Federal regulations and measures which apply within the Siletz Reservation.

§ 49.10732 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Siletz Reservation.

§ 49.10733 [Reserved]

§ 49.10734 [Reserved]

§ 49.10735 Classification of regions for episode plans.

The air quality control region which encompasses the Siletz Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	III
Sulfur oxides	III

§ 49.10736 Contents of implementation plan.

The implementation plan for the Siletz Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10737 [Reserved]

§ 49.10738 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10739 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10740 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Siletz Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permit.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10741-49.10760 [Reserved]

IMPLEMENTATION PLAN FOR THE SKOKOMISH INDIAN TRIBE, WASHINGTON

§ 49.10761 Identification of plan.

This section and §§ 49.10762 through 49.10790 contain the implementation plan for the Skokomish Indian Tribe. This plan consists of Federal regulations and measures which apply within the Skokomish Reservation.

§ 49.10762 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Skokomish Reservation.

§ 49.10763 [Reserved]

§ 49.10764 [Reserved]

§ 49.10765 Classification of regions for episode plans.

The air quality control region which encompasses the Skokomish Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III

Pollutant	Classification
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10766 Contents of implementation plan.

The implementation plan for the Skokomish Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10767 [Reserved]

§ 49.10768 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing

stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21 and, as applicable.

§ 49.10769 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10770 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Skokomish Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10771-49.10790 [Reserved]

IMPLEMENTATION PLAN FOR THE SNOQUALMIE INDIAN TRIBE, WASHINGTON

§ 49.10791 Identification of plan.

This section and §§ 49.10792 through 49.10820 contain the implementation plan for the Snoqualmie Indian Tribe. This plan consists of Federal regulations and measures which apply within the Snoqualmie Indian Reservation.

§ 49.10792 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Snoqualmie Indian Reservation.

§ 49.10793 [Reserved]

§ 49.10794 [Reserved]

§ 49.10795 Classification of regions for episode plans.

The air quality control region which encompasses the Snoqualmie Indian Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	I
Particulate matter (PM ₁₀)	I
Sulfur oxides	IA

§ 49.10796 Contents of implementation plan.

The implementation plan for the Snoqualmie Indian Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§ 49.10797 [Reserved]

§ 49.10798 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10799 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10800 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Snoqualmie Indian Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10801-49.10820 [Reserved]

**IMPLEMENTATION PLAN FOR THE SPOKANE TRIBE OF THE SPOKANE RESERVATION,
WASHINGTON**

§ 49.10821 Identification of plan.

This section and §§ 49.10822 through 49.10850 contain the implementation plan for the Spokane Tribe. This plan consists of Federal regulations and measures which apply within the Spokane Reservation.

§ 49.10822 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Spokane Reservation.

§ 49.10823 [Reserved]

§ 49.10824 [Reserved]

§ 49.10825 Classification of regions for episode plans.

The air quality control region which encompasses the Spokane Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II

Pollutant	Classification
Sulfur oxides	III

§ 49.10826 Contents of implementation plan.

The implementation plan for the Spokane Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10827 [Reserved]

§ 49.10828 Permits to construct.

(a) Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

(b) In accordance with section 164 of the Clean Air Act and the provisions of 40 CFR 52.21(g), the Spokane Indian Reservation is designated as a Class I area for the purposes of preventing significant deterioration of air quality.

§ 49.10829 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10830 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Spokane Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10831-49.10850 [Reserved]

**IMPLEMENTATION PLAN FOR THE SQUAXIN ISLAND TRIBE OF THE SQUAXIN ISLAND
RESERVATION, WASHINGTON**

§ 49.10851 Identification of plan.

This section and §§ 49.10852 through 49.10880 contain the implementation plan for the Squaxin Island Tribe of the Squaxin Island Reservation. This plan consists of Federal regulations and measures which apply within the Squaxin Island Reservation.

§ 49.10852 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Squaxin Island Reservation.

§ 49.10853 [Reserved]

§ 49.10854 [Reserved]

§ 49.10855 Classification of regions for episode plans.

The air quality control region which encompasses the Squaxin Island Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10856 Contents of implementation plan.

The implementation plan for the Squaxin Island Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§ 49.10857 [Reserved]

§ 49.10858 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, 40 CFR 52.21, as applicable.

§ 49.10859 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10860 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Squaxin Island Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of

emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10861-49.10880 [Reserved]

IMPLEMENTATION PLAN FOR THE STILLAGUAMISH TRIBE OF INDIANS OF WASHINGTON

§ 49.10881 Identification of plan.

This section and §§ 49.10882 through 49.10920 contain the implementation plan for the Stillaguamish Tribe of Indians. This plan consists of Federal regulations and measures which apply within the Reservation of the Stillaguamish Tribe of Indians.

§ 49.10882 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Stillaguamish Tribe of Indians.

§ 49.10883 [Reserved]

§ 49.10884 [Reserved]

§ 49.10885 Classification of regions for episode plans.

The air quality control region which encompasses the Reservation of the Stillaguamish Tribe of Indians is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	I
Particulate matter (PM10)	I

Pollutant	Classification
Sulfur oxides	IA

§ 49.10886 Contents of implementation plan.

The implementation plan for the Reservation of the Stillaguamish Tribe of Indians consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.10887 [Reserved]

§ 49.10888 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10889 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10890 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Reservation of the Stillaguamish Tribe of Indians:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10891-49.10920 [Reserved]

**IMPLEMENTATION PLAN FOR THE SUQUAMISH INDIAN TRIBE OF THE PORT MADISON
RESERVATION, WASHINGTON**

§ 49.10921 Identification of plan.

This section and §§ 49.10922 through 49.10950 contain the implementation plan for the Suquamish Indian Tribe of the Port Madison Reservation. This plan consists of Federal regulations and measures which apply within the Port Madison Reservation.

§ 49.10922 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Port Madison Reservation.

§ 49.10923 [Reserved]

§ 49.10924 [Reserved]

§ 49.10925 Classification of regions for episode plans.

The air quality control region which encompasses the Port Madison Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10926 Contents of implementation plan.

The implementation plan for the Port Madison Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§ 49.10927 [Reserved]

§ 49.10928 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10929 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10930 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Port Madison Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10931-49.10950 [Reserved]

IMPLEMENTATION PLAN FOR THE SWINOMISH INDIAN TRIBAL COMMUNITY, WASHINGTON

§ 49.10951 Identification of plan.

This section and §§ 49.10952 through 49.10980 contain the implementation plan for the Swinomish Indian Tribal Community. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Swinomish Reservation.

§ 49.10952 Approval status.

The implementation plan for the Swinomish Reservation includes the EPA-approved Tribal rules and measures incorporated by reference in § 49.10957.

§ 49.10953 [Reserved]

§ 49.10954 [Reserved]

§ 49.10955 Classification of regions for episode plans.

The air quality control region which encompasses the Swinomish Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.10956 Contents of implementation plan.

The implementation plan for the Swinomish Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) [Reserved]
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.
- (m) The EPA-approved Tribal open burning rules and measures approved in § 49.10957 of this chapter.

(1) Title, authority, jurisdiction, definitions.

(2) Open burning.

(3) Public involvement.

(4) Appeals.

(5) Repealer, severability and effective date.

(6) Enforcement.

(7) Hearings, Appeals, computation of time and law applicable.

7. Amend § 49.10957 by revising the last sentence of paragraph (b)(3) to read as follows:

§ 49.10957 EPA-approved Tribal rules and plans.

* * * * *

(b) * * *

(3) * * * For information on the availability of this material at NARA, contact the

Office of the Federal Register – email: fr.inspection@nara.gov; website:

www.archives.gov/federal-register/cfr/ibr-locations.html.

* * * * *

8. Revise §§ 49.10958 through 49.11111 to read as follows:

Sec.

* * * * *

49.10958 Permits to construct.

49.10959 Permits to operate.

49.10960 Federally-promulgated regulations and Federal implementation plans.

49.10961-49.10980 [Reserved]

Implementation Plan For The Tulalip Tribes Of Washington

49.10981 Identification of plan.

49.10982 Approval status.

49.10983 [Reserved]

49.10984 [Reserved]

49.10985 Classification of regions for episode plans.

49.10986 Contents of implementation plan.

49.10987 [Reserved]

49.10988 Permits to construct.

49.10989 Permits to operate.

49.10990 Federally-promulgated regulations and Federal implementation plans.

49.10991-49.11010 [Reserved]

Implementation Plan For The Confederated Tribes Of The Umatilla Indian Reservation, Oregon

49.11011 Identification of plan.

49.11012 Approval status.

49.11013 [Reserved]

49.11014 [Reserved]

49.11015 Classification of regions for episode plans.

49.11016 Contents of implementation plan.

49.11017 [Reserved]

49.11018 Permits to construct.

49.11019 Permits to operate.

49.11020 Federally-promulgated regulations and Federal implementation plans.

49.11021 Permits for large open burning, agricultural burning, forestry and silvicultural burning, and small open burning annual permits.

49.11022-49.11040 [Reserved]

Implementation Plan For The Upper Skagit Indian Tribe, Washington

49.11041 Identification of plan.

49.11042 Approval status.

- 49.11043 [Reserved]
- 49.11044 [Reserved]
- 49.11045 Classification of regions for episode plans.
- 49.11046 Contents of implementation plan.
- 49.11047 [Reserved]
- 49.11048 Permits to construct.
- 49.11049 Permits to operate.
- 49.11050 Federally-promulgated regulations and Federal implementation plans.
- 49.11051-49.11070 [Reserved]

Implementation Plan For The Confederated Tribes Of The Warm Springs Reservation Of Oregon

- 49.11071 Identification of plan.
- 49.11072 Approval status.
- 49.11073 [Reserved]
- 49.11074 [Reserved]
- 49.11075 Classification of regions for episode plans.
- 49.11076 Contents of implementation plan.
- 49.11077 [Reserved]
- 49.11078 Permits to construct.
- 49.11079 Permits to operate.
- 49.11080 Federally-promulgated regulations and Federal implementation plans.
- 49.11081-49.11100 [Reserved]

Implementation Plan For The Confederated Tribes And Bands Of The Yakama Nation, Washington

- 49.11101 Identification of plan.
- 49.11102 Approval status.
- 49.11103 [Reserved]
- 49.11104 [Reserved]
- 49.11105 Classification of regions for episode plans.
- 49.11106 Contents of implementation plan.
- 49.11107 [Reserved]
- 49.11108 Permits to construct.
- 49.11109 Permits to operate.
- 49.11110 Federally-promulgated regulations and Federal implementation plans.
- 49.11111 Permits for large open burning, agricultural burning and small open burning annual permits.
- * * * * *

§ 49.10958 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10959 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10960 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Swinomish Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) [Reserved]
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10961-49.10980 [Reserved]

IMPLEMENTATION PLAN FOR THE TULALIP TRIBES OF WASHINGTON

§ 49.10981 Identification of plan.

This section and §§ 49.10982 through 49.11010 contain the implementation plan for the Tulalip Tribes. This plan consists of Federal regulations and measures which apply within the Tulalip Reservation.

§ 49.10982 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Tulalip Reservation.

§ 49.10983 [Reserved]

§ 49.10984 [Reserved]

§ 49.10985 Classification of regions for episode plans.

The air quality control region which encompasses the Tulalip Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	I
Particulate matter (PM10)	I
Sulfur oxides	IA

§ 49.10986 Contents of implementation plan.

The implementation plan for the Tulalip Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of

emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§ 49.10987 [Reserved]

§ 49.10988 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.10989 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.10990 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Tulalip Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.10991-49.11010 [Reserved]

IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE UMATILLA INDIAN

RESERVATION, OREGON

§ 49.11011 Identification of plan.

This section and §§ 49.11012 through 49.11040 contain the implementation plan for the Confederated Tribes of the Umatilla Indian Reservation. This plan consists of Federal regulations and measures which apply within the Umatilla Indian Reservation.

§ 49.11012 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Umatilla Indian Reservation.

§ 49.11013 [Reserved]

§ 49.11014 [Reserved]

§ 49.11015 Classification of regions for episode plans.

The air quality control region which encompasses the Umatilla Indian Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	III

§ 49.11016 Contents of implementation plan.

The implementation plan for the Umatilla Indian Reservation consists of the following rules,

regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.132 Rule for large open burning permits.
- (i) Section 49.133 Rule for agriculture burning permits.
- (j) Section 49.134 Rule for forestry and silvicultural burning permits.
- (k) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (l) Section 49.137 Rule for air pollution episodes.
- (m) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (n) Section 49.139 Rule for non-Title V operating permits.
- (o) Section 49.140 Rule for residential wood burning devices.
- (p) Section 49.142 Rule for small open burning annual permits.

§ 49.11017 [Reserved]

§ 49.11018 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.11019 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.11020 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the

Umatilla Indian Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.132 Rule for large open burning permits.
- (i) Section 49.133 Rule for agriculture burning permits.
- (j) Section 49.134 Rule for forestry and silvicultural burning permits.
- (k) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (l) Section 49.137 Rule for air pollution episodes.
- (m) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (n) Section 49.139 Rule for non-Title V operating permits.
- (o) Section 49.140 Rule for residential wood burning devices.
- (p) Section 49.142 Rule for small open burning annual permits.

NOTE 1 TO §49.11020: EPA entered into a Partial Delegation of Administrative Authority Agreement with the Confederated Tribes of the Umatilla Indian Reservation on August 21, 2006 for the rules listed in paragraphs (a), (g), (h), (i), (j) and (l) of this section.

§ 49.11021 Permits for large open burning, agricultural burning, forestry and silvicultural burning, and small open burning annual permits.

- (a) From June 7, 2005 through December 31, 2023, small open burns and large open burns are subject to the permitting requirements of § 49.132.
- (b) Beginning January 1, 2024, large open burns are subject to the permitting requirements of

§ 49.132.

(c) Beginning January 1, 2007, agricultural burns are subject to the permitting requirements of

§ 49.133.

(d) Beginning January 1, 2007, forestry or silvicultural burns are subject to the permitting requirements of § 49.134.

(e) Beginning January 1, 2024, small open burns are subject to the permitting requirements of § 49.142.

§§ 49.11022-49.11040 [Reserved]

IMPLEMENTATION PLAN FOR THE UPPER SKAGIT INDIAN TRIBE, WASHINGTON

§ 49.11041 Identification of plan.

This section and §§ 49.11042 through 49.11070 contain the implementation plan for the Upper Skagit Indian Tribe. This plan consists of Federal regulations and measures which apply within the Upper Skagit Reservation.

§ 49.11042 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Upper Skagit Reservation.

§ 49.11043 [Reserved]

§ 49.11044 [Reserved]

§ 49.11045 Classification of regions for episode plans.

The air quality control region which encompasses the Upper Skagit Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III

Pollutant	Classification
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	II

§ 49.11046 Contents of implementation plan.

The implementation plan for the Upper Skagit Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.
- (l) Section 49.140 Rule for residential wood burning devices.

§ 49.11047 [Reserved]

§ 49.11048 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.11049 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.11050 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Upper Skagit Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits
- (l) Section 49.140 Rule for residential wood burning devices.

§§ 49.11051-49.11070 [Reserved]

IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE WARM SPRINGS

RESERVATION OF OREGON

§ 49.11071 Identification of plan.

This section and §§ 49.11072 through 49.11100 contain the implementation plan for the Confederated Tribes of the Warm Springs Reservation. This plan consists of Federal regulations and measures which apply within the Warm Springs Reservation.

§ 49.11072 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Warm Springs Reservation.

§ 49.11073 [Reserved]

§ 49.11074 [Reserved]

§ 49.11075 Classification of regions for episode plans.

The air quality control region which encompasses the Warm Springs Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	II
Sulfur oxides	III

§ 49.11076 Contents of implementation plan.

The implementation plan for the Warm Springs Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§ 49.11077 [Reserved]

§ 49.11078 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.11079 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.11080 Federally-promulgated regulations and Federal implementation plans.

The following regulations are adopted and made part of the implementation plan for the Warm Springs Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.140 Rule for residential wood burning devices.

§§ 49.11081-49.11100 [Reserved]

**IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES AND BANDS OF THE YAKAMA
NATION, WASHINGTON**

§ 49.11101 Identification of plan.

This section and §§ 49.11102 through 49.11130 contain the implementation plan for the Confederated Tribes and Bands of the Yakama Nation. This plan consists of Federal regulations and measures which apply within the Yakama Reservation.

§ 49.11102 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Yakama Reservation.

§ 49.11103 [Reserved]

§ 49.11104 [Reserved]

§ 49.11105 Classification of regions for episode plans.

The air quality control region which encompasses the Yakama Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide	III
Nitrogen dioxide	III
Ozone	III
Particulate matter (PM10)	I
Sulfur oxides	III

§ 49.11106 Contents of implementation plan.

The implementation plan for the Yakama Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.132 Rule for large open burning permits.
- (i) Section 49.133 Rule for agricultural burning permits.
- (j) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (k) Section 49.137 Rule for air pollution episodes.
- (l) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (m) Section 49.139 Rule for non-Title V operating permits.
- (n) Section 49.140 Rule for residential wood burning devices.
- (o) Section 49.141 Rule for curtailment of residential wood burning devices for specific areas.
- (p) Section 49.142 Rule for small open burning annual permits.

§ 49.11107 [Reserved]

§ 49.11108 Permits to construct.

Permits to construct are required for new stationary sources and modifications to existing stationary sources pursuant to §§ 49.151 through 49.173, and 40 CFR 52.21, as applicable.

§ 49.11109 Permits to operate.

Permits to operate are required for sources in accordance with the requirements of § 49.139.

§ 49.11110 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Yakama Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.132 Rule for large open burning permits.
- (i) Section 49.133 Rule for agricultural burning permits.
- (j) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (k) Section 49.137 Rule for air pollution episodes.
- (l) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (m) Section 49.139 Rule for non-Title V operating permits.
- (n) Section 49.140 Rule for residential wood burning devices.
- (o) Section 49.141 Rule for curtailment of residential wood burning devices for specific areas.
- (p) Section 49.142 Rule for small open burning annual permits.

§ 49.11111 Permits for large open burning, agricultural burning and small open burning annual permits.

- (a) Beginning [date to be determined] large open burns are subject to the permitting requirements of § 49.132.
- (b) Beginning [date to be determined], agricultural burns are subject to the permitting requirements of § 49.133.

(c) Beginning [date to be determined], small open burns are subject to the permitting requirements of § 49.142.

9. Designate the appendix to subpart M of part 49 as appendix A to subpart M of part 49 and revise newly-designated appendix A to read as follows:

Appendix A to Subpart M – Alphabetical Listing of Tribes and Corresponding Sections

Indian Tribe	Refer to the following sections in subpart M
Burns Paiute Tribe, Oregon	§§ 49.9861 to 49.9890
Chehalis Reservation, Washington--Confederated Tribes of the	§§ 49.9891 to 49.9920
Coeur D’Alene Tribe, Idaho	§§ 49.9921 to 49.9950
Colville Reservation, Washington--Confederated Tribes of the	§§ 49.9951 to 49.9980
Coos, Lower Umpqua and Siuslaw Indians, Oregon-- Confederated Tribes of the	§§ 49.9981 to 49.10010
Coquille Indian Tribe, Oregon	§§ 49.10011 to 49.10040
Cow Creek Band of Umpqua Tribe of Indians Oregon	§§ 49.10041 to 49.10070
Cowlitz Indian Tribe, Washington	§§ 49.10071 to 49.10100
Grand Ronde Community of Oregon--Confederated Tribes of the	§§ 49.10101 to 49.10130
Hoh Indian Tribe, Washington	§§ 49.10131 to 49.10160
Jamestown S’Klallam Tribe, Washington	§§ 49.10161 to 49.10190
Kalispel Indian Community of the Kalispel Reservation,	§§ 49.10191 to 49.10220

Indian Tribe	Refer to the following sections in subpart M
Washington	
Klamath Tribes, Oregon	§§ 49.10221 to 49.10250
Kootenai Tribe of Idaho	§§ 49.10251 to 49.10280
Lower Elwha Tribal Community, Washington	§§ 49.10281 to 49.10310
Lummi Tribe of the Lummi Reservation, Washington	§§ 49.10311 to 49.10340
Makah Indian Tribe of the Makah Indian Reservation, Washington	§§ 49.10341 to 49.10370
Muckleshoot Indian Tribe, Washington	§§ 49.10371 to 49.10400
Nez Perce Tribe, Idaho	§§ 49.10401 to 49.10430
Nisqually Indian Tribe, Washington	§§ 49.10431 to 49.10460
Nooksack Indian Tribe, Washington	§§ 49.10461 to 49.10490
Port Gamble S'Klallam Tribe, Washington	§§ 49.10491 to 49.10520
Puyallup Tribe of the Puyallup Reservation, Washington	§§ 49.10521 to 49.10550
Quileute Tribe of the Quileute Reservation, Washington	§§ 49.10551 to 49.10580
Quinault Indian Nation, Washington	§§ 49.10581 to 49.10610
Samish Indian Nation, Washington	§§ 49.10611 to 49.10640
Sauk-Suiattle Indian Tribe, Washington	§§ 49.10641 to 49.10670

Indian Tribe	Refer to the following sections in subpart M
Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington	§§ 49.10671 to 49.10700
Shoshone-Bannock Tribes of the Fort Hall Reservation, Idaho	§§ 49.10701 to 49.10730
Siletz Indians of Oregon--Confederated Tribes of	§§ 49.10731 to 49.10760
Skokomish Indian Tribe, Washington	§§ 49.10761 to 49.10790
Snoqualmie Indian Tribe, Washington	§§ 49.10791 to 49.10820
Spokane Tribe of the Spokane Reservation, Washington	§§ 49.10821 to 49.10850
Squaxin Island Tribe of the Squaxin Island Reservation, Washington	§§ 49.10851 to 49.10880
Stillaguamish Tribe of Indians of Washington	§§ 49.10881 to 49.10920
Suquamish Indian Tribe of the Port Madison Reservation, Washington	§§ 49.10921 to 49.10950
Swinomish Indian Tribal Community, Washington	§§ 49.10951 to 49.10980
Tulalip Tribes of Washington	§§ 49.10981 to 49.11010
Umatilla Indian Reservation, Oregon--Confederated Tribes of the	§§ 49.11011 to 49.11040
Upper Skagit Indian Tribe, Washington	§§ 49.11041 to 49.11070
Warm Springs Reservation of Oregon--Confederated Tribes of the	§§ 49.11071 to 49.11100

Indian Tribe	Refer to the following sections in subpart M
Yakama Nation, Washington--Confederated Tribes and Bands of the	§§ 49.11101 to 49.11130

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